MALAYSIA

REPORT

OF THE

ROYAL COMMISSION OF ENQUIRY TO INVESTIGATE

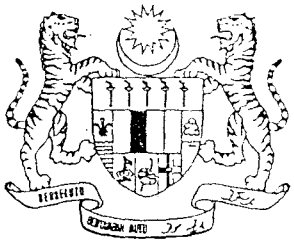
INTO

The Workings of Local Authorities in West Malaysia

Under the Chairmanship of

SENATOR DATO' ATHI NAHAPPAN, D.P.M.S., J.M.N., M.P.

DECEMBER, 1968



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DI-CHETAK DI-JABATAN CHETAK KERAJAAN
OLEH THOR BENG CHONG, A.M.N., PENCHETAK KERAJAAN
KUALA LUMPUR
1970

MAY IT PLEASE YOUR MAJESTY

We, the undersigned Commissioners appointed by Your Majesty to enquire into and consider whether the continued existence of any category or categories of local authorities, particularly those local authorities in which the Capital of a State is situate serve any useful purpose and to report and recommend thereon taking into consideration the adequacy or otherwise of the existing laws with regard to local authorities, have the honour to submit the following Report for the consideration of Your Majesty.

DATO' ATHI NAHAPPAN, D.P.M.S., J.M.N., M.P.
(Chairman)

DR AWANG BIN HASSAN, S.M.J., M.P.

D. S. RAMANATHAN, J.P.

CHAN KEONG HON, S.M.S., A.M.N., P.J.K., M.P.

TAN PENG KHOON, K.M.N., P.I.S.

HAJI ISMAIL BIN PANJANG ARIS, J.M.N., P.J.K.

CHOONG EWE LEONG

MOHD. SENAWI BIN HJ. ZAINUDDIN,
P.M.P., P.J.K.
(Secretary)

T. PUVANARAJAH
(Assistant Secretary)

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CHAPTER I

GENERAL INTRODUCTION

1. Being initially concerned with the unsatisfactory way that most Local Councils in the country were administered, the National Council for Local Government on November 18, 1963, decided that a Commission be appointed to make a complete investigation into the workings of Local Councils and to make recommendations as to how best their administration could be improved.

2. For this purpose, the Cabinet on September 2, 1964, appointed a Commission under the Chairmanship of the Hon'ble Dato' Abdul Rahman bin Yacub, who was then the Assistant Minister of National and Rural Development and Justice. In addition to the Chairman, seven Members were appointed to the Commission. These Members, whose names are given below were subsequently appointed to the present Royal Commission which was reconstituted out of the earlier Commission.

3. The National Council for Local Government had second thoughts as to the scope of the enquiry and on October 26, 1964, it decided that the Commission's enquiry should not be confined to Local Councils alone, but should extend to local authorities of all categories in view of the fact that other categories of local authorities as well were not functioning in a satisfactory manner and that a comprehensive enquiry to bring the entire system of local government up-to-date was desirable.

4. Taking note of the later decision of the National Council for Local Government, the Cabinet on October 28, 1964, reconsidered the matter and decided that a new Commission be appointed under the Commissions of Enquiry Ordinance, 1950, to enquire into the workings of all local authorities, to review the existing local government laws and to report and recommend as to the need for structural changes of local authorities by evaluating the need or otherwise of the existing authorities in their present forms.

5. Pursuant to this, the Cabinet further decided on June 16, 1965, that His Majesty be advised to appoint a Commission of Enquiry under the Commissions of Enquiry Ordinance, 1950, and accordingly His Majesty the Yang di-Pertuan Agong by L.N. 291 of July, 1965, appointed the Royal Commission of Enquiry on Local Authorities comprising the following Members:

The Hon'ble Senator Dato' Athi Nahappan, D.P.M.S., J.M.N., M.P. (*Chairman*).

The Hon'ble Dr Awang bin Hassan, S.M.J., M.P.

The Hon'ble Enche' D. S. Ramanathan, J.P.

The Hon'ble Senator Chan Keong Hon, S.M.S., A.M.N., P.J.K., M.P.

The Hon'ble Enche' Tan Peng Khoon, K.M.N., P.I.S.

Enche' Lim Cheng Poh, K.M.N.

Tuan Haji Ismail bin Panjang Aris, J.M.N., P.J.K.

The Commissioner of Local Government (*Secretary*).

6. Enche' Lim Cheng Poh was unable to serve the Commission for personal reasons and in his place Enche' Choong Ewe Leong was appointed. Enche' Mohd. Senawi bin Haji Zainuddin, the Commissioner of Local Government, served the Commission as Secretary. At the same time, Enche' T. Puvanarajah, the Deputy Commissioner of Local Government was officially appointed as Assistant Secretary to the Commission. When the Secretary was away overseas, Enche' T. Puvanarajah served as Secretary to the Commission.

7. His Majesty the Yang di-Pertuan Agong appointed us with the following Terms of Reference:

(i) to enquire into and consider whether the continued existence of any category or categories of local authorities, particularly those local authorities in which the Capital of a State is situate, serve any useful purpose;

(ii) to report on the foregoing matters and to make such recommendations, as in their opinion the circumstances require, taking into consideration the adequacy or otherwise of the existing laws with regard to local authorities, namely, the Municipal Ordinance S.S. Cap. 133, the Town Boards Enactment F.M.S. Cap. 137, the State of Kelantan Municipal Enactment 1938, the Town Boards Enactment No. 118 (Johore), the Town Boards Enactment, Trengganu (Cap. 64), the Town Boards Enactment F.M.S. Cap. 137 as made applicable to Perlis, by the Town Boards (Application to Perlis) Ordinance, 1952, the Town Boards Enactment F.M.S. Cap. 137, as made applicable to Kedah by F.M. Ordinance No. 52/56 and the Local Councils Ordinance, 1952.

8. We set about our work by having our first meeting in Kuala Lumpur on September 21, 1965. At that meeting we considered the Terms of Reference and the procedure to be adopted in our enquiry.

9. The extensive scope of the Terms of Reference immediately made us conscious of the magnitude of our task. We realised that we were not limited to recommending improvements to the present categories of local authorities, but rather we were required to "enquire into and consider" whether there is justification for the "continued existence" of the present category or categories of local authorities. Put differently, we were required to consider whether the present structures of local authorities "serve any useful purpose". If, in our opinion, they do not serve any useful purpose in their present forms, then the implied question that logically and necessarily arises would be what other type or types of structures would serve a useful purpose. In our understanding of the first part of the Terms of Reference, we recognised this implied question. We therefore felt that our enquiry should be conducted to finding out—

(*a*) whether the present categories of local authorities served any useful purpose and, if not, why not? and,

(*b*) whether they could be improved in their present forms and, if so, how? and,

(*c*) if they could not be effectively improved, what structural reforms were necessary?

10. The second part of the Terms of Reference required us to report on the usefulness or otherwise of the present structural patterns of local authorities and to make recommendations as, in our opinion, "the circumstances require", taking into consideration the adequacy or otherwise of the existing laws with regard to local authorities.

11. Though it was easy to be tempted by text-book theories and to be conveniently and uncritically influenced by patterns of local government in developed countries, we recognised that there is no universal pattern of local authorities and that even within a country there could be multifarious forms of local authorities not in keeping with present day needs, but purely dictated by tradition. We therefore decided that while we should collect enough national and international materials for purposes of useful comparison and rationalisation, and even adaptation, we should in crystallising our final views and recommendations, be dictated by what the "circumstances require".

12. We also noticed that the Terms of Reference had singled out for our enquiry and consideration the local authorities in which the Capitals of the States are situate. It is not for us to speculate the reasons as to why the State Capitals have been singled out, though many had done so with not a small degree of apprehension which will be dealt with later. So far as we were concerned, we merely regarded the singling out of the State Capitals in the Terms of Reference as no more than a particular drawing of our attention, and our enquiry in this regard was based purely on that consideration.

13. It was also apparent from the Terms of Reference that we should confine our enquiry to West Malaysia.

14. We decided that we should visit all the States and Districts in West Malaysia in order to gain on-the-spot information about the problems of local authorities, and that the Commission Secretariat should address all the State Governments and the local authorities in the country requesting them to submit memoranda on any matter relevant to our Terms of Reference so that we could have the opportunity of studying them prior to our visit to the States and Districts concerned. We further decided that a proforma seeking answers to specific questions should be prepared and circulated to every local authority in the country for its completion and return to the Commission. In compliance with our request all 373 local authorities returned the proformae duly completed.

15. Members of the public and organisations interested in the affairs of local authorities were also invited to submit memoranda to the Commission.

16. In response to our appeal, we received in all 331 memoranda from State Governments, local authorities, political parties, government officers, public bodies, ratepayers and individuals before, during and even after our country-wide enquiry. A list of all the memoranda so received is given in the appendices attached hereto.

17. Before embarking upon our enquiry at the State and District levels, wide publicity in all languages was given in all the available *mass media*, namely, Radio, Television and Newspapers, of our Terms of Reference and the purpose of our enquiry. We are satisfied that from the publicity so given, the public was generally informed of the appointment of the Commission and its purpose, and that they were welcome to make representations to the Commission. Publicity was also given to the fact that any statement made to the Commission would be privileged under the law, and that it could not be a subject matter of a claim, nor could it be used as evidence in any Court of Law against the person who made it.

18. In pursuance of our enquiry, we visited every State Capital and District in West Malaysia. The dates and places of our hearings are to be found in the appendices to this Report.

19. We usually held our enquiry during normal office hours, but there were occasions when we had to continue with the enquiry beyond the normal office hours in order to avoid inconveniencing councillors, representatives and individuals who had come from distant places.

20. Every one who desired to give evidence was given a hearing. No one was ever refused to be heard. Witnesses could at their choice give their views either individually or collectively. The majority of the local authorities gave their views collectively through their councillors. But, whether evidence was given individually or collectively, every one was given a patient and exhaustive hearing.

21. Even political detainees who had expressed a desire to give evidence were welcomed to do so. On two occasions, political detainees appeared before us. At our request, arrangements were made for them to give evidence in Kuala Lumpur and Malacca through the courtesy and good offices of the Ministry of Home Affairs.

22. As stated earlier, we visited every one of the Districts and most of the Sub-districts in the country. Our enquiry was invariably held at the town where the District Officer has his office. Representatives of all the Local Councils, Town Boards and Town Councils (if any), and ratepayers and prominent individuals in the district were invited to give evidence at the enquiry. In every district, we also heard evidence of the District Officer who plays an important role in the affairs of the local authorities.

23. Wherever the Commission considered that the views of certain persons would be useful, we summoned them to attend and give evidence. Persons interested in giving oral evidence were heard orally, while those who had submitted written evidence were invited to give oral evidence where clarifications and explanations were considered necessary. As a rule, all those who were summoned appeared before us, except in the City of George Town and in Muar where, much to our regret, we were compelled to issue warrants of arrest to require the attendance of the representatives of the Socialist Front in both these places. In George Town, when the representatives of the Socialist Front had submitted a memorandum, they were requested to come for oral evidence to provide further clarifications and explanations. They failed to appear and, as a result, warrants had to be issued. In Muar, warrants had to be issued to two Socialist Front members of the Batu Pahat Town Council who failed to appear despite the issue of summonses.

24. At the commencement of every enquiry, we reminded all witnesses desiring to give evidence that they could give their evidence either in public or in camera. They were informed that, in either event, their statement would be privileged. By and large, witnesses gave their evidence in public. Those who preferred to give evidence in camera were heard in camera. No one was required to state any reason as to why he wanted to give his evidence in camera.

25. Almost all local authorities in the country did appear before the Commission through their councillors or members to give evidence, except Dungun Town Council in the State of Trengganu whose councillors did not appear to give evidence despite

our invitation, on the ground that we did not commence our hearing until 11.00 a.m. instead of the previously announced time of 10.00 a.m. They were, in fact, informed earlier through the District Office that we would be sitting at 11.00 a.m. and were requested to be present at that time. We do not wish to comment on this except to state in passing that the important thing here was not the difference of one hour, but that a rare opportunity to express the views of the Dungun ratepayers was unnecessarily thrown away by the councillors.

26. The State Governments too, for their part, gave us their views throughout the country. As a rule, when we arrived at a State, we immediately made a courtesy call on the Menteri Besar or the Chief Minister. Barring one or two exceptions, we were able to meet all the Menteri[2] Besar and the Chief Ministers. Wherever possible, we also made courtesy calls on the Ruler or Governor of a State.

27. Every State Government gave its views through a representative delegation of the State Executive Council headed usually by the Menteri Besar or the Chief Minister. It either presented a written memorandum or gave its views orally. In either event, we had the opportunity of seeking information, clarification, explanation and even assessing the reactions to propositions made elsewhere. Generally we had frank dialogues with the representatives of the State Governments.

28. All the State Governments gave their views as evidence to be recorded. The State Government of Johore, however, felt that constitutionally it would not be correct for the State Government to appear before us as witnesses to give evidence to be recorded. It felt that since the Royal Commission had been appointed through the National Council for Local Government in which every State Government is represented, the State Government had a responsibility in the very appointment of the Royal Commission; and, as such, the Royal Commission was a subordinate body to the State Government and it would therefore not be correct for a State Government to appear before its subordinate body. While we were not inclined to indulge in a controversy on this, the views of the representatives of the State Executive Council headed by the then Acting Menteri Besar, were heard orally, informally and without declaring our hearing as an enquiry. As such, the views expressed by the Johore State Government have not been officially recorded in our Record of Evidence.

29. It would not be out of place for us to state that in England even the Ministry of Local Government and Housing has officially given its views to the Royal Commission on Local Government in England, which is currently studying the problem, as to how the future structure of local government should be. As we were appointed by His Majesty the Yang di-Pertuan Agong and not by the National Council for Local Government, it is our considered view that not merely the State Governments, but also the Central Government, could have been required to give us the benefit of their views, had it been considered necessary by the Commission.

30. Though the Commissions of Enquiry Ordinance, 1950, gave us the status and powers of First-Class Magistrates, and by reason whereof we could have conducted our enquiry with a degree of formality commensurate with that of a Court, we felt that such a rigid formality would defeat our purpose of eliciting views in a frank manner. We considered that members of the public should feel free to appear before us and to state

their views in a frank manner, and that there should be no needless restrictions imposed by unnecessary formalities. This encouraged witnesses to engage in healthy dialogue with us throughout the country.

31. To enable witnesses to express themselves easily and clearly, they were permitted to speak in the language they preferred. As a result, any one of the four languages, namely, National language, English, Chinese and Tamil, was used by witnesses according to their preference. The Commission, however, recorded its evidence in English with the aid of Court interpreters provided by the respective State Governments.

32. Witnesses both in the rural and urban areas were generally impressed by the fact that a Royal Commission had come to them inviting their views on how their local government should be. To them, this was the first time that such a ground-level consultation had taken place and, quite understandably, they regarded this as an exercise in democracy.

33. In many places, witnesses and observers came in large numbers, often in few hundreds. They no doubt reflected the interest the public had been showing in our enquiry. We were impressed by the frankness of the evidence given by witnesses in rural areas, and especially in Kelantan. With dignity and without fear, some of the rural witnesses in Kelantan and elsewhere disagreed with the supervisory role of the District Officers in the affairs of their Local Councils. Without personally blaming the District Officers, they criticised the system. And they did so in the presence of the District Officers who, with equal objectivity and dignity, answered the criticisms. Representatives of different political parties too expressed their views which were often conflicting and even critical, but they did so with restraint.

34. It would be pertinent to mention here that both at the commencement of and during the enquiry, there was some apprehension among a section of the public as regards the Terms of Reference of the Commission. Fears were expressed as to the sweeping nature of the Terms of Reference, and some had read into them a kind of death warrant to local authorities in State Capitals and elsewhere, and the critics had even identified us, uncharitably and unjustifiably, as process servers of that warrant. They felt that the Commission had been appointed to do away with the present elective local authorities.

35. There were also some criticisms as to the composition of our Commission. These came from some of the leaders of the Opposition Parties, particularly the Socialist Front. The critics said that the Members of the Commission were only from the Ruling Party and from the civil service, and that no member from any of the Opposition Parties was appointed in it. It was, of course, not for us to answer these criticisms. We merely indicated that His Majesty had appointed us and that we would proceed to do what was required of us as best as we could and in the best interests of the country.

36. The enquiry was not without its minor incidents. There were two small demonstrations launched against the Commission in Kuala Lumpur and Johore Bahru by members of the Socialist Front. In both these places, some youths and others seemingly school children gathered outside the halls where the enquiry was to take place and carried placards with slogans "Democracy is dead" and "Royal Commission go home". They stood outside the halls and shouted slogans after which they left. Otherwise they were peaceful demonstrations and there was no disturbance.

37. To allay the fears expressed and to give a proper perspective of the Commission's task, we as a matter of routine prefaced every hearing with an introduction and explanation as to the purpose of our enquiry. Throughout the country, we made it clear that we were an absolutely independent Commission appointed not by the Government, but by His Majesty; we had no political motivation; we had come with complete open minds and with no preconceived notions; we would hear every shade of view and evaluate it only on its merits; our own views would only be crystallised after the enquiry and after assessing the evidence as objectively as we could and in the best interests of the country.

38. It would be correct to say that our explanations generally had the desired effect of allaying the apprehensions or misgivings as to our composition and our purpose. It enabled particularly the representatives of all political Parties to appear before us and to state their views very freely and frankly.

39. In order to obtain the optimum result of our enquiry in a coherent, relevant and expeditious manner, at the outset of every hearing we invited views from witnesses under four broad headings, namely: (*a*) constitution or structure; (*b*) administration; (*c*) finance; and (*d*) services.

40. Firstly, we explained the constitutional structure of the local authorities of the place where the enquiry was held, and asked whether the present constitution of every category of local authority therein was satisfactory and, if not, why not, and how best it could be improved, and whether any re-structuring of the local authority was necessary and, if so, on what basis. We went into the question of elective representation and as to whether such representation had been functioning effectively and, if not, why not, and what improvements could be brought about. Other constitutional matters such as elections on party basis, qualifications of candidates, councillor-voter relationship, compulsory voting and related matters figured very much under this heading.

41. In the case of administration, we projected the present administrative structure of each category of the local authorities in that place, and sought views as to how the administration could be improved so as to produce optimum efficiency. In touching upon this problem, views were sought as to the separation of powers between the policy-making role of the councillors and their executive functions and the desirability or otherwise of separating these roles. Views were also sought as to the necessity or otherwise of having a unified pattern of local government service throughout the country.

42. On finance, the present financial powers of the different types of local authorities, the existence or absence of autonomy and the meaningful effect that should be given to this autonomy, the question of imposition and collection of rates, the reason for not effectively collecting the rates, enforcement problems and other matters relating to finance were the focal points of examination under this heading.

43. Finally, on services, we sought views on the present scope of services that local authorities could provide, their remunerative or non-remunerative character and how this field could be extended so as to enable the local authorities to serve as effective and meaningful instruments in the discharge of local services.

44. Views were also invited as to the inadequacy or otherwise of existing legislations, and how any inadequacy could be remedied.

45. Although witnesses were invited to give their views under these four broad headings, they were not necessarily limited to these categories. They were invited to express opinions on any subject so long as it was relevant to the Terms of Reference. Opportunity was also taken at these enquiries to project proposals heard elsewhere in order to test the reaction of the witnesses as to the efficacy or otherwise of these proposals.

46. Although, as stated earlier, the response from the local authorities and from the public was generally encouraging, nonetheless much of the evidence given and the memoranda submitted did not throw much light on the problems of local government and therefore were not very helpful to us in our considerations.

47. During the course of the enquiry, some opinions were expressed about systems or patterns of local government in other countries. Superficial comparisons were made between our system and those abroad, and we were recommended to adopt some aspects of the foreign patterns. But, when the Commission probed into them further, witnesses were unable to furnish adequate particulars. It therefore became necessary for the Commission to examine the validity of such recommendations by considering the relevant foreign systems and to test them as to whether they would be suitable for adaptation within the context of our country. Unfortunately, the Commission encountered difficulty in getting adequate materials on local government within the country and also those in foreign countries. However, the Commission within the available means and facilities had to indulge in extensive reading of materials on local government in other countries before it could set about its task of writing its Report.

48. Through the courtesy of the Asia Foundation, the Commission as a whole was invited to attend the XVIIIth World Congress of the International Union of Local Authorities held in Bangkok from 6th to 11th February, 1967. This was the first I.U.L.A. Congress held outside Europe and for the first time in Asia in which about 600 delegates from all over the world attended. The theme of the Congress was "The Management of Public Utilities". Unfortunately, only 6 members of the Commission and 2 members of the Secretariat staff could attend this Congress. At the Congress, the Commissioners had the opportunity of discussing various matters on local authorities with representatives from other countries and to establish personal contacts with prominent international personalities in the field of local government.

49. The Chairman of the Commission, Y.B. Senator Dato' Athi Nahappan, was invited to attend the Pacific Conference on Urban Growth held at Honolulu from 1st to 12th May, 1967, where urban problems of the countries in the Pacific region were central points of deliberations. The conference was very useful to the extent that it highlighted the urban problems, and gave an insight into the role that local authorities could play as instruments of public administration.

50. After the Honolulu Conference, the Chairman was invited by the State Department of the United States, under a Leadership Grant, to visit the United States and to discuss the system of local government in that country. During his two weeks stay there, he visited several local authorities and discussed with local government officials on matters relating to local government. He also had useful exchange of views with the representatives of the Department of Housing and Urban Development, Internal City Managers Associations and others on the patterns and problems of local government in the United States.

51. He then proceeded to the United Kingdom where he had discussions with the Secretary to the Royal Commission on Local Government as to the survey that is being carried out in England with a view to reforming their local government structures. He also had useful exchange of views with the officials of the Ministry of Local Government, in London.

52. On route to Malaysia, he stopped over in India and had discussions with the Secretary to the Ministry of Local Government in the State of Madras and with officials of the Madras Corporation as regards the local government system there.

53. The Chairman also attended the I.U.L.A. Conference held in Stockholm, Sweden, from 23rd to 29th September, 1967. The theme of the conference was "Amalgamation or Co-operation of Local Authorities". This conference specifically dealt with the structural patterns of local governments throughout the world. About a thousand delegates attended this conference from all over the world. The Chairman had very profitable discussions with various international representatives on the patterns of local government and the modern trend of thought in local government.

54. In addition, the Hon'ble Dr Awang bin Hassan, a Member of this Commission, unofficially visited Sarawak and had useful discussions with the Minister for Local Government and the Secretary to the Ministry of that State. He also visited the Kuching Municipality and a District Council, and gathered information pertaining to the local government system in Sarawak.

CHAPTER II

HISTORICAL PERSPECTIVE

ORIGINS AND DEVELOPMENT

55. The purpose of this Chapter is to present in brief outline the development of local government in this country in its historical perspective so as to provide a better appreciation of the Chapters that follow.

56. The modern history of local government in the States of Malaya is not based on tradition or custom. It is essentially, if not exclusively, the creature of statutes.

57. In analysing the general history of local government, three distinct periods present themselves for consideration. They are:

(*a*) The pre-British period.

(*b*) The British period.

(*c*) The post-Merdeka period.

(*a*) Pre-British Period

58. Local Government during the period before the advent of the British in the country was unknown in the modern concept. Any form of diffused or decentralised authority was purely traditional and indigenous. It would be relevant and instructive to give a short description of the general pattern of authorities that were then in existence.

59. The largest political unit was the Negeri, or the State. Originally the word "Negeri" meant City. It was so understood in view of the derivation of the Malay political system from the Malacca Sultanate. Eventually this meaning took a change. By the 19th century, the word "Negeri" was generally understood to refer to a territory under an independent Ruler.

60. The main attributes of a State were a territory and the use of rivers as the main arteries of communications and trade. The basin of a large river or a group of adjoined rivers together with the surrounding land was an important constituent element for the creation of a State. Usually the Capital of a State was established at a point where the main river merged with the sea. A river mouth was preferred for its usefulness and convenience. Here the Ruler of the State could control the movement of people entering or leaving the State. It was also a relatively convenient point to defend the State from external attack, and to impose taxes on imports and exports.

61. The Head of the State bore the title of Yang di-Pertuan (he who is made lord). It was also usual to have the Arabic honorific prefix Sultan, denoting that the Ruler was independent.

62. The function of the Ruler was to exercise the powers of his kingdom. He symbolised the unity and welfare of his people. He was responsible for foreign relations and provided leadership in external wars. He was assisted and supported by his kinsmen in the Royal lineage and by executive assistants.

63. Next dow ..ne line was the regional unit which was a district authority known as the "*Jajahan*" or "*Daerah*". The topography of this was also shaped by the use of rivers as a means of communication. A district was either on one side or on both sides of the main river of the State, or it was a side valley down to the junction with the main stream.

64. Every district had a chief, who was drawn either from a Royal or non-Royal lineage. He usually had long connections with the district. The chief invariably belonged to the ruling class as distinct from the subject class (the ra'ayat).

65. Matters such as local administration, revenue collection, defence and justice were the functions of a District Chief. He also provided general leadership in the area. He had few ritual functions and was assisted by helpers and deputies who were usually his close kinsmen.

66. Below the district was the smallest administrative unit known as the "kampong" or the village. This was a cluster of houses, say, from 5 to 40, where there was local kinship and economic co-operation. It was more of a social and economic unit, rather than political. The head of a village (except in Negeri Sembilan) was known as "Penghulu" (Headman). He acted as a link between his villagers and the district chief. Though he had an important status within his village, he did not belong to the ruling class and was generally of the subject class.

67. The above, in brief, are the 3 levels of political units generally prevalent in the country prior to the British era, with some exceptions, as in the case of the State of Negri Sembilan.

68. The political and social structure in Negri Sembilan was derived from the Menangkabau influence of Sumatra. They were different from those stated above. Negri Sembilan had no Sultanate or constitutionalised central government until about 1870. It had 4 major District Chiefs who were known as "Undang" (law giver). Until 1870, these chiefs had a loose form of a confederacy for defence purposes. Apart from this, there was no structure of a central political unit.

69. From the foregoing, it is evident that generally there were 3 tiers of political, social and economic units in the country, namely, the Negeri (State), the Jajahan or Daerah (the district), and the kampong (the village). They had their levels of powers and functions. They were feudalistic and authoritarian.

70. From this pattern it can be approximately deduced that the Negeri was the central government, the Daerah was the regional government, and the Kampong was the local government as then conceived and practised. The three levels were necessarily the product of the political, social and economic system of the people then.

71. It is not as if that when the British came to the country, there was a complete vacuum without any form of government. Any such assertion is unjustified. It is on the other hand true to state that the system of government then in existence had little or no comparison with the British or the Western concept of government. It is in this context that the words of Hugh Low, the Resident of Perak (1877-89) should be assessed when he said "we must first create the government to be advised". What he meant was to create the kind of government as had evolved in the United Kingdom. It did not mean that there was no government of any form at all.

72. The Kampong and to some degree the Daerah, can be equated with some of the basic principles and practice of local government, though of course their scopes were necessarily rudimentary and limited, and the manner of their creation was customary and feudalistic.

(b) British Period

73. To have a broad understanding of the political and administrative development of the country during the British period, it is necessary to focus on some of their historical milestones.

74. The British rented the Island of Penang on a perpetual lease in 1786. They bought the Island of Singapore in 1819. They obtained Malacca by treaty from Holland in 1824.

75. Penang was the first place where the seed of modern local government appears to have been sown. This was as early as in 1801 when an *ad hoc* body known as "The Committee of Assessors" was established. This Committee was entrusted with the power "to lay out the town in a manner most suitable to the requirement of the inhabitants". Here one finds the responsibility of town planning being placed in the hands of a local committee.

76. With town planning in view the committee was authorised to construct streets, to sell adjacent lands in lots, and to plan a system of drainage. They were made responsible to preserve law and order, and to levy and raise assessment rates.

77. It is interesting to note the way the committee was constituted. It was not strictly appointed by the Government, nor was it elected by the people as a whole. The principal Asian and British inhabitants of the town met and elected the members of the committee. But the Chairman of the committee was not so elected. He was an official appointed by the Lieutenant Governor. The committee was aided by the Government which gave money and land so as to help the committee in its work of improving the town.

78. The Government gave lands to the committee on application and granted them to "the people and their representatives in perpetuity". It is interesting to note that this committee was not incorporated. It was purely a voluntary body. Yet the Government issued grants of land and sums of money for the use of a body not incorporated.

79. Though this committee was voluntary the (Bengal) Government in Council recognised its existence by regulation in 1827.

80. The Committee of Assessors was the forerunner of the present Municipality in Penang. In substance it was the first attempt to create a modern local authority. It was set up in a uniformed style both in Penang and in the Fort of Malacca.

81. At this time, it was the East India Company that was responsible for the Island of Prince of Wales, the Fort of Malacca and Singapore. To simplify and to streamline the Government of its possessions, the Company decided to combine the three possessions and thus have a centralised form of government. Its decision can be seen from the following passage:

> "Since 1913, Singapore and the Town & Fort of Malacca have been annexed to the Prince of Wales' Island and the whole is termed an United Settlement".

82. The creation of the United Settlement was an important landmark. From then on, all ordinances and acts were passed for the United Settlement as a whole and the history of the three territories developed on the same lines.

83. The next phase of the growth was the definite creation of Municipal Committees in the United Settlement. This was brought about by the (East India) Act IX of 1848. It was the first official Municipal Body in the real sense of the word, and in the history of the United Settlement. The Municipal Committee succeeded the Committee of Assessors and assumed the latter's functions.

84. It is significant to note that under Section 15 of the (East India) Act IX of 1848, otherwise known as the Municipal Rates Act, the Municipal Committee was required to publish a statement of accounts for the interest and query of the ratepayers. Thus the principle that the ratepayers had a right to examine and enquire as to whether the Municipal fund was being fairly and properly spent was clearly recognised as early as in 1848.

85. As time passed, the people in the 3 Municipalities agitated for wider franchise and a larger share of responsibilities in the affairs of their Municipalities. For instance, they wanted 7 members on the Municipal Council and pressed for 5 to be elected by the ratepayers, one to be the Resident Councillor, and the last to be appointed by the Governor.

86. The Government responded to this agitation by the (India) Act XXVII of June 14, 1856, which repealed the Act IX of 1848. The new Act of 1856 provided for a Council of only 5 members, 3 of whom were to be elected by the ratepayers, 1 to be appointed by the Governor, and the other to be the Resident Councillor who was *ipso facto* to be the President.

87. The important thing to note is that firstly the principle of election was accepted and, secondly, the necessity for an elected majority in the Municipal Council was also recognised more than 100 years ago.

88. The Act of 1856 designated the 5 councillors of each of the Municipal Councils of George Town, Singapore and Malacca as the "Municipal Commissioners". They were, for the first time, constituted as a body corporate with a perpetual succession and a common seal. They could sue and be sued, and had power to purchase and hold lands and other properties, movable or immovable, as trustees for the purposes of the Act.

89. Though the Act provided for an elected majority, it imposed severe restrictions on the eligibility of voters and commissioners. For instance, it required that in order to stand for election as a Municipal Commissioner, the candidate must have been a ratepayer paying annually a rate not less than 40 rupees. Now this was a large sum in those years. To pay 40 rupees, one had to have substantial properties. Only very few could have afforded this. Consequently the number of eligible candidates must have been very small indeed. Another qualification was that the candidate was required to live in the Municipal area.

90. The restrictions on the qualification of a voter too were severe. Unlike the candidate, he was not required to live in the Municipal area, but had to own properties therein. And he was required to pay an annual assessment rate of 25 rupees. This had a very restrictive effect. Only very few people could afford to pay rates to that extent. This naturally kept the number of voters to a privileged few.

91. But these restrictions were not too different from those imposed by the English Municipal Corporations Act, 1835, which introduced major reforms in the system of local government in rather more than half the boroughs in England by, inter alia, extending the suffrage to the ratepayers. It established the rule that only ratepaying inhabitants were entitled to take part in Municipal affairs either as electors or as members of the Council. It would seem that the Government of the United Settlement had introduced this principle by its Act of 1856 with additional restrictions.

92. Another interesting feature of the 1856 Act was a limited form of "ballotting", though the word ballot was not used. There was no secrecy about voting. Every voter had to write on the voting ticket the names of the candidates of his choice, and write and sign his own name. He then had to go personally to the place of the election to deliver his voting ticket to the Sheriff or his Deputy. As if these were not enough, the Sheriff was required to examine the voting ticket, satisfy himself as to the identity of the voter who had signed it, and whether he was registered as a voter, and then deposited the voting ticket "in the closed box".

93. This was not a secret ballotting as we know these days, and was never meant to be so. At that time the idea of secret ballotting had not even been conceived in England where it was only introduced for the first time by the Ballot Act in 1872 which, more than all the penal provisions, helped to reduce corrupt practices in elections.

94. The first Municipal election in the United Settlement took place in December, 1857. In Singapore it was held on December 5, 1857, and between December 5 and 20, 1857, elections were completed in George Town and the Fort of Malacca.

95. On January 1, 1857, the Straits Settlements Municipal Act No. XXVII was passed which defined the Municipal boundaries of George Town and the Fort of Malacca.

96. Ten years later on April 1, 1867, the Indian Government formally transferred the Straits Settlements to the Crown and from then on they came directly under the control of the Colonial Office in London.

97. A major reconstitution of the Municipalities in the Straits Settlements took place in 1888. This was introduced by the S.S. Municipal Ordinance No. 9 of 1887, which came into operation on January 1, 1888. This Ordinance fixed the total number of Commissioners at 6. In that year, 3 of the Commissioners were elected and 3 were nominated. This altered the principle of elected majority introduced in 1856 to one of parity between the elected and the nominated members, thus raising the inference that elected majority was not desirable. It also fixed and demarcated the boundaries of the Municipality of George Town and the Fort of Malacca.

98. The limited franchise introduced in 1857 continued until 1913 in the Straits Settlements when the new Municipal Ordinance of 1913 was passed. This was based primarily on the English Public Health Act, 1875, and the Public Health Act and Amendment Act, 1907, together with a considerable number of other English Acts which were relied upon for some of the sections of the Ordinance. But the Ordinance was not wholly borrowed without local imagination. There were many sections which were adapted to local conditions which in some respects gave the Municipal Commissioner wider and in others lesser powers than corresponding authorities in England.

99. The Municipal Ordinance 1913 brought about a significant departure in the principle of elective representation. After having had an elected majority for 32 years and after having placed the elected and the nominated on a parity for 25 years, the 1913 Act brought an unceremonial end to the very idea of election, and instead introduced a wholly nominated representation.

100. The reasons that led to the abolition of the limited franchise in Municipal representation are not clear. Several factors could have contributed to the abolition. By 1913, the population of the Straits Settlements had greatly increased. A very large part of the population was composed of immigrant people. In trade and commerce, the 3 centres had considerably grown in importance. There was no elective representation even to the Straits Settlement Legislative Council in which the Unofficial Members were outnumbered by the Officials. Even a mild demand for elective representation to the Legislature was met by the argument that the majority of the local population were "transient aliens who showed no interest in their government and who would be an utterly unpredictable electorate". In any event, there was hardly any local support for elective representation.

101. The wholly nominated representation introduced into the Municipalities of George Town and the Fort of Malacca in 1913 had a long and placid lease of life until 1950, with not less than 5 Commissioners appointed by the Governor and the majority of whom were ratepayers. The President was also appointed by the Governor from amongst the Commissioners.

102. This nominated system continued until the introduction of elections in 1951 as a result of the passing of the Local Authorities Elections Ordinance, 1950. This Ordinance provided for election to the various categories of local authorities then in existence.

103. There were then 3 categories of local authorities, viz.:

(i) the Municipalities of George Town, Malacca and Kuala Lumpur governed by the Municipal Ordinance, S.S. Cap. 133, and also partly by the Town Boards Enactment, Cap. 137, in the case of Kuala Lumpur;

(ii) the Town Boards established in respect of any area declared to be a Town Board area under the provisions of the Town Boards Enactment of the Federated Malay States, Cap. 137, or of the corresponding written law relating to Town Boards for the time being in force in any Malay State;

(iii) Rural Boards created under the provisions of Part XVII of the Municipal Ordinance.

104. The Local Authorities Elections Ordinance, 1950, provided for the Municipality to be administered by a Council consisting of a President and such number of elected, or, of elected and of appointed councillors as may be prescribed by the Constitution to such Municipality. The Constitution could provide for not less than 6 and not more than 24 members. It could provide for all the councillors to be elected, but otherwise it was required to provide for an elected majority. In the case of a Municipality, the election had to be introduced by the Ruler-in-Council or the High Commissioner in Council within 3 months from the date of the commencement of the Ordinance.

105. Similarly, the Ordinance provided for the conversion of the Town Boards into Town Councils. The change of nomenclature had a real significance. All Town Boards were hitherto composed of nominated officials and unofficials. By becoming a Town Council, it had to have an elected majority. The Ruler-in-Council in the case of a State or the High Commissioner in Council in the case of a Settlement had discretionary powers to direct that the whole or majority of all members of the Town Board or Rural Board be elected instead of appointed or nominated.

106. This was indeed a radical reform during the height of the Emergency. Thus the desirability and necessity of having elections for local authorities were recognised and implemented at a time when the country's constitutional government was rocked by violent acts of the communists. At that time, the local authorities were largely confined to urban areas, with the exception of the areas covered by the Rural Boards in the Settlements of Penang and Malacca.

107. Though the Ordinance of 1950 provided for the possibility of a fully elected local authority, it was not implemented until after Merdeka except in the case of George Town City Council which became fully elected on December 1, 1956.

108. It is important to note, however, that the first elections in the country were held for the local authorities than for any other tiers of government.

109. The first elections for the Federal Legislative Council took place some few years later, that is to say, on July 27, 1955. So was the case for the State Legislative Assemblies.

110. Pausing here, let us now take a look at the pattern of local authorities in the Federated and the Unfederated Malay States. Whereas a limited franchise was introduced in the sector of local authorities in the Straits Settlements as early as in 1857, the other States of the Federation of Malaya experienced franchise for the first time only in 1951, almost 100 years later.

111. The reason for its late introduction is not far to seek. When the East India Company introduced limited franchise for the local authorities in the Straits Settlements, it did so with complete authority over these Settlements. But it was not so in the case of the Malay States which had their own Rulers. Firstly, it took from 1874 to 1914 for the British to extend their protection to the Malay States by treaty and not by conquest. Each Sultan signed with the British a treaty by which he agreed to accept a British Resident or Adviser, and to adhere to his advice, except on matters of Malay custom and the Muslim religion.

112. Upon extending their protection to Perak, Selangor, Negri Sembilan and Pahang between 1874 to 1887, the British proceeded to establish law and administrative order. To them, it was an obvious disadvantage to have too many fragmented and separate governments in a small country. In 1895, they persuaded the four States to federate into one government, and thus the Federated Malay States came into being in 1896 by reason of the Treaty of Federation. They hoped that eventually all the other States would also join the Federation. But the Federated Malay States turned out to be more than a Federation and took shape like an unitary State. This was not intended either by the Malay Rulers or by the British.

113. By the Bangkok Treaty of 1909, Siam transferred all her rights of suzerainty, protection, administration and control over the four Northern States of Kelantan, Trengganu, Perlis and Kedah to the protection of the British in return for a modification of British extra-territorial jurisdiction in Siam. Thus, these four States accepted the role of the British Advisers in their States, but did not join the Federation. Johore accepted the British Adviser only in 1914.

114. So, during the period of 1874 to 1914, the pre-occupation of the British was on extending their protection over the Malay States and, in the process, on establishing a Federal State and setting up effective governments in the Unfederated States.

115. Prior to their intervention, there were frequent internal strifes and violent acts of lawlessness, and the British proceeded to establish effective governments in place of the traditional and feudalistic authorities as exercised by the Sultans of the Negeri[2] (States) and the Chiefs of the Districts. Until then, the Chiefs of the Districts had extensive administrative powers. They collected and retained most local revenues. These were in accordance with the customary prerogatives and were the very basis of the Chiefs' position. With the British intervention, these were to be "regulated" by the Sultans on the advice of the British Residents and with a degree of centralisation.

116. So the British assumption of power through their Residential and Advisory roles generated almost at once the phenomenon of administrative centralisation in place of the traditional decentralised powers exercised by the District Chiefs and the Penghulus. Thereby the patterns of "traditional local authorities" were substituted by the British by a nexus of government departments in the charge of expatriate officers, chiefly Europeans, as the apparatus of their administration.

117. The British reconciled the Malay Rulers and the Chiefs to the new administration by two means. Firstly, in place of the customary revenues, the Rulers and the Chiefs were paid "political allowances" from the Government Treasury. Secondly, a consultative machinery was set up in the name of "State Council" in every State composed of the Ruler and selected Chiefs who were consulted on administrative matters before a decision was taken.

118. Thus the British system of administration provided for a strong central government and a deconcentrated network of departments down to the levels of districts, with District Officers in charge.

119. Though there was economic development and the rapid establishment of commensurate infrastructure, such as roads and railroad transportations and communications, social services such as health, medical and education, and the consequent emergence of small townships and urbanisation, the idea of introducing decentralised local authority on elective representation did not gather momentum. The Governments of the Federated Malay States contented themselves by having Sanitary Boards administered as Government Departments under the authority of the Residents.

120. The Sanitary Boards Enactment passed in 1907 and subsequently amended in 1911, 1914 and 1916 was a limited, but comprehensive legislation containing the essentials of a law necessary for a local authority. The Resident of a State from time to time with the approval of the Chief Secretary to the Federated Malay States declared

any area within such State to be a Sanitary Board area. The Resident also nominated "public servants and other persons" to exercise control within the area "over all matters in respect of which power is given to them", and appointed a member of the Board to be the Chairman. With the approval of the Chief Secretary, the Resident also appointed Secretaries, Health Officers, Inspectors and such other officers necessary. The Sanitary Board was not a separate body corporate or like a modern local authority. It was no less and no more than a Government Department.

121. The Sanitary Boards Enactment was succeeded by the Town Boards Enactment of the Federated Malay States (F.M.S. Cap. 137). This went through a series of amendments over a period. In original constitution, it was almost identical with the Sanitary Board. The Ruler-in-Council declared an area to be a Town Board and appointed "Government officers and other persons" as members of the Board. He also appointed one of the members as the Chairman of the Board who was, as a rule, the District Officer. He appointed Secretaries, Health Officers and other officers considered necessary. All monies received by the Board had to be paid into the Treasury to the credit of the public revenue, which meant that the Board was not financially autonomous. It was not also a body corporate.

122. By an amendment introduced in 1954 to the Town Boards Enactment, Cap. 137 the Ruler-in-Council could empower a Town Board to keep all its funds and spend them under estimates of revenue and expenditure as approved by the Ruler-in-Council. This gave a Town Board the status of financial autonomy, and constituted it as a body corporate with power to sue and be sued with perpetual succession, and to acquire property. The Town Boards carried on under a nominated system until 1950, like the Municipalities and the Rural Boards.

123. As stated earlier, the Ruler-in-Council could convert a Town Board into a Town Council with an elected majority or with a wholly elected representation, by virtue of the Local Authorities Elections Ordinance, 1950.

124. The other daring innovation in the field of local government was the Local Council. This was introduced because of or in spite of the communist terrorism during the Emergency that lasted from mid-1948 to early 1960. The Local Councils Ordinance, 1952, was passed four years after the declaration of a state of Emergency. For the first time, Local Councils were created for villages in the rural areas. And what is more the principle of evolution or gradualism was not adopted both in the concept and practice of local government in villages. They were hurriedly set up in kampongs, new villages or rural areas if the residents so desired or if it was considered necessary by the authorities with little or no rational regard of the sizes of their areas or of the extent of their populations. It could be established in any place, notwithstanding that the place was within an area of another local authority.

125. Another important and radical feature was that the Local Council was fully or almost fully clothed with elective representation. All its members could be elected by and from the persons of full age ordinarily resident in the Local Council area, and the Chairman was to be elected by and from the members of the Council.

126. Where necessary, in order to ensure adequate representation of minorities in the Local Council, not more than one-third of elected members might be nominated by the Menteri Besar in a State or by the Resident Commissioner in a Settlement.

127. An additional significant feature was that the Local Council was given straightaway the status of financial autonomy, unlike its very much older counterpart, the Town Boards, in urban and more developed areas and where the people were more sophisticated. Like other local authorities, the Local Councils' annual estimates and income and expenditure were required to be approved by a superior authority, in this instance the District Officer.

128. All these provisions were embodied in a well-meant, but hastily conceived Ordinance having only 14 Sections. No doubt, the Local Council with its rural orientation was the consequence of the state of Emergency brought about by the communists.

129. Why was this hurried introduction of hastily-baked democracy in the little villages? The answer has a direct bearing on the setting up of new villages which were the by-product of "Operation Starvation" launched by General Briggs in June 1950. At that time, there were hundreds of thousands of squatters living on and cultivating generally State land along isolated jungle fringes. The communist terrorists relied on these squatters for the supply of food, money and manpower. They were generally out of administrative reach and were very vulnerable to the dictates of the communists. The Government found it necessary that this source of supply of food, money and manpower should be eliminated. The Government then embarked upon a persuasive as well as compulsive programme of resettling the squatters within new villages, especially created with barbed wire perimeter fences and guarded by Police and from which no one was allowed to go out at night except with the approval of the Police. This was to prevent the villagers supplying the communists with much needed food and medicine as well as to protect them from intimidation by the communists. On the positive and creative side, the new villagers were given leases to their lands and thus afforded lawful security of tenure, unlike their previous squatter holdings held only on sufferance. Some of the villages were provided with piped water supply, electricity, schools, community halls and other benefits which were never enjoyed by them before.

130. Over 550 new villages were built and about 500,000 squatters (about 85% of whom were Chinese and the remainder others) were thus resettled.

131. For the first time, they were integrated into a social, economic and civic life within the ambit of law and order.

132. On the civic side, most of the new villages were provided with Local Councils so that they could exercise the rights of democracy in managing their civic affairs and, in the process, they could see the virtue of democracy as a way of corporate life. The thought behind all these was lofty and constructive, even though it had to be hurriedly translated into action.

133. Thus during the British period both in the Settlements and in the States, the growth of local government has been gradual and pragmatic. Though the idea of an embryonic elective representation was recognised in the Settlements as early as in 1801, it was not invariably followed thereafter. It was subsequently abridged and eventually

eliminated in 1913 on the ground that there was no integrated unity and psychological identification of the people owing to their migratory and transient nature, even though urbanisation, sophistication and economic expansion had greatly improved in the country.

134. Paradoxically, the aftermath of the Second World War and the Emergency caused by communist terrorism had accelerated the introduction of the paraphernalia of democracy in the field of local government in setting the tone and pace towards the goal of self-government and independence.

135. As a further move in this direction, Mr H. Bedale, Town Clerk of the Hornsey Borough of England, was invited in 1952 for a period of six months "to advise the Government of the Federation of Malaya on the establishment, organisation and supervision of local authorities", and he commenced work on August 20, 1952.

136. Having made a quick survey and study, he made a number of useful and practical recommendations for the improvement in the existing structure, services, powers and election procedures of all types of local authorities. He did not, however, recommend any radical reforms.

137. Commenting on the Town Boards, he observed that "the system of local government, in my view, cannot be regarded as satisfactory because it leaves intervening rural areas without local government administration". In this connection, he cites the point taken by the Select Committee in its report No. 26 of 1950, which, quoting Mr W. C. Taylor's well-written book "Local Government in Malaya" reads as follows:

> "The latter (Town Boards) confine their attention to the towns and sundry villages and road strips allotted to them, a consequence of which is that most of the area of a State has no local government administration in the true sense at all, but remains under the charge of individual local government officers."

138. The other important suggestions he made were that steps should be taken "to build up a service of local government officers, including officers with professional and technical qualifications. The rank, salary and conditions of service of these officers should be equal to comparable appointments in the civil service", and that there should be a periodical review to convert more Town Boards into Town Councils.

139. Many of the recommendations of Mr Bedale have since been implemented by the Government.

140. The introduction of elections to most of the local authorities during the British period paved the way for the participation of political parties in the affairs of local government and for the crystallisation of organised politics therein. These eventually provided the basis for wider participation of political parties at the State and Federal elections that followed in 1955 and thereafter.

(c) Post-Merdeka Period

141. By the time the Federation of Malaya achieved Merdeka in 1957, there had already been a substantial leadership drain from the various local authorities to play greater roles at the State and National levels. This was an inevitable process which left the local authorities in the hands of the lower echelons of leadership. Despite this leadership drain there still remained persons of professional qualifications, such as doctors, lawyers, accountants and so on in various local authority areas who could have provided the leadership, but were unwilling to do so.

142. On October 1, 1958, there were the following local authorities in the Federation:

City Councils	1	
Municipal Councils	2	
		3
Town Councils (financially autonomous)	23	
Town Councils (non-financially autonomous)	9	
		32
Town Boards (financially autonomous)	6	
Town Boards (non-financially autonomous)	40	
		46
Rural District Councils (financially autonomous)	4	
Rural District Councils (non-financially autonomous)	3	
		7
Local Councils	302	

143. The policy of the Government in regard to local government was echoed by the Secretary to the then Minister of Natural Resources and Local Government, who said:

> "The policy, at least of the present Government, is that as soon as possible every person in this country should live within some form of local authority area which can ultimately become a fully elected and a fully financially autonomous authority. We have got about half-way along that road."

144. The importance of local government was clearly reflected by the view of the then Minister of the Interior and Justice, Y.B. Dato' Suleiman bin Dato' Abdul Rahman, who said:

> "Now, local government is an enormously important subject, fundamental to good government in a democratic country, and inextricably connected with Government at all other levels. It is the solid base on which National Government rests."

145. In accordance with the above-stated policy, more Town Boards were converted into Town Councils initially with an elected majority and appointed Chairmen, and with financial autonomy. Subsequently, some of the Town Councils became fully elected, with elected Chairmen.

146. Mention must be made of the changes brought about in the allocation of responsibility for local government over the years. Before 1948, local government was always the responsibility of the Governments of the Straits Settlements and the Federated Malay States in these regions. In the Unfederated Malay States, it was the responsibility of the State Government in each of the States. With the signing of the Federation of Malaya Agreement, 1948, local government was made a Federal subject and the Federal Government was made responsible for it. The Federal responsibility of this subject continued until Merdeka in 1957, when a major change was proposed.

147. The Federation of Malaya Constitutional Commission recommended that local government should be a State subject. The Commission further said:

> "We think that a large degree of uniformity is desirable in local government legislation, but that conditions in particular States may require special treatment, and, in view of the close relationship between State authorities and local government authorities, we think the State views on local government should prevail."

148. Accordingly, local government has been made an item on the State List of the Merdeka Constitution (now Malaysian Constitution), i.e. item 4 of List II of the Ninth Schedule. The fact that local government was listed under the jurisdiction of the State Governments, as recommended by the Reid's Constitutional Commission, did not in any way diminish the necessity for uniformity of law and policy for local government throughout the country. It was felt necessary that Article 76 of the Constitution should be invoked by the Parliament to make laws for the purpose of promoting uniformity of the laws for local government.

149. Though Article 76 (4) of the Constitution enabled laws to be made by Parliament "for the purpose only of ensuring uniformity of law and policy" in respect of local government, it was found that this provision did not specifically spell out the machinery of consultations between the Federal and the State Governments to achieve the purpose of legislative and policy uniformity as envisaged by the said Article. Further, the State Governments were not expressly obligated by the said Article to accept the advice of the Federal Government in seeking such uniformity. This was found to be an inadequacy that had to be remedied to give a meaningful effect to Article 76 (4) of the Constitution. Therefore, by an amendment to the Constitution in 1960, provision was made for the establishment of a constitutional body known as the National Council for Local Government, as specified in the new Article 95A of the Constitution.

150. The duties of the National Council for Local Government are as follows:

(i) to formulate from time to time in consultation with the Federal Government and the State Governments a National policy for the promotion, development and control of local government throughout the Federation, and for the administration of laws relating thereto, and the Federal and State Governments shall follow the policy so formulated;

(ii) the Federal Government and the State Governments shall consult the National Council for Local Government in respect of any proposed legislation dealing with local government, and it shall be the duty of the National Council for Local Government to advise those Governments on any such matter;

(iii) the Federal Government or any State Government *may* consult the National Council for Local Government on any other matter relating to local government, and it *shall* be the duty of the National Council for Local Government to advise that Government on any such matter.

151. In 1960, the Local Government Elections Act was passed by the Parliament, which transferred to the Elections Commission the conduct and supervision of elections to all local authorities other than Local Councils. By an amendment to this Act in 1961, the conduct of Local Council elections was also transferred to the Elections Commission. Until then, the conduct and supervision of such elections were vested in the State Authorities.

152. Until the passing of the Local Government Elections Act, 1960, elections to the local authorities were contested on party lines but without party symbols, in some States. In other States, contests on party lines or with party symbols were not permitted. It was felt that uniformity was desirable in all the States about candidates contesting on party lines and in using party symbols. Prior to the 1960 Act, candidates used

their own symbols ...ch were determined by the drawing of lots. The reason behind this was that local authority elections should be free from the impact and effect of party politics.

153. Though party symbols were not allowed, the taking of a party line was not altogether prevented in some States, while in others, even the taking of a party line was prevented on the ground that since the rationale of proscribing party symbols was to keep politics out, a fortiari open party line also should be precluded.

154. Though there was no express legal bar against the use of party symbols in local authority elections under the Local Authorities Elections Ordinance, 1950, there were, however, regulations under the said Ordinance in all States and Settlements providing for the allocation of symbols for local authority elections by drawing of lots. By implication therefore, it was argued that party symbols were precluded as well.

155. After some administrative dialogue within the Federal Government and between the Federal and State Governments, a somewhat laboured decision was reached in 1959, i.e. after some 8 years of elections without party symbols, that it was "not possible to exclude entirely party politics from the affairs of local authorities", and that there should be uniformity in all the States and Settlements on this matter.

156. This decision is embodied in Regulation 15 (2) (*b*) of the Local Government (Conduct of Elections) Regulations, 1960, which provides that "a political party may submit to the Elections Commission for its approval and for registration, if so approved, a symbol for the use of its candidates at any election".

THE PRESENT POSITION

157. In order to consider the present position of the local authorities in the country, the various categories of local authorities should be separately discussed.

Municipal Councils

158. The Municipal Councils at present represent the most highly developed system of Local Government in West Malaysia. There are four Municipalities in West Malaysia, namely, Kuala Lumpur, Penang, Ipoh and Malacca. All four are financially autonomous statutory corporations and with the exception of Kuala Lumpur have wholly elected Councils. They are more independent of services rendered by the Federal and State Governments than other local authorities. They employ directly the whole of their administrative and technical staff. Their activities range over the whole field of Municipal services—public health, public works, cultural activities, town planning, public housing; with the addition of public transport, water and electricity services in the case of Penang City Council and water supply in the case of Malacca Municipality. They rely on either the Federal or the State Governments to some extent for advice on the implementation of policy and for loan funds from the Federal Government but require no assistance in the day-to-day running of their affairs. Budgets of Municipalities are subject to the approval of the Ruler/Governor-in-Council and likewise loans from the Federal Government have to have the sanction of the Ruler/Governor-in-Council. In the case of the Federal Capital, the budgets have to be approved by the Minister charged with the responsibility for Local Government.

159. George Town, Penang, had its fully elected Municipal Council on December 1, 1956. It was then granted City status on January 1, 1957, and the former Municipal Council became after that date a City Council. The granting of City Council status is merely a mark of honour and does not in any way affect its legal status as a Municipality. The Penang City Council is administered by a Council of 15 with a Mayor elected from among the councillors.

160. Malacca Municipality became a fully elected Council on May 27, 1961, and was administered by a Council of 12 with a President elected from among the councillors until its administration was taken over by the State Government.

161. Pursuant to a provision made in the Federal Constitution that Kuala Lumpur should be the Federal Capital and that Parliament should have wide powers to legislate as to its local governance, an amendment to the Constitution was effected in 1960 and the Federal Capital thus came into being on 1st April, 1961. The Federal Capital Advisory Board of Kuala Lumpur is made up of 12 members, of which 6 are officials and 5 are unofficials who are appointed by the Yang di-Pertuan Agong. The Board is presided over by a Commissioner who is a senior civil servant.

162. The Town Council of Ipoh was declared a Municipality with an elected President on May 31, 1962.

163. The Municipalities of Penang and Malacca operate solely under the Municipal Ordinance (S.S. Cap. 133) whilst the Municipalities of Kuala Lumpur and Ipoh operate partly under the Municipal Ordinance (S.S. Cap. 133) and partly under the Town Boards Enactment (F.M.S. Cap. 137).

Town Boards and Town Councils

164. As explained earlier, Town Boards were the distinctive creation of the former Federated Malay States and were essentially the organs of the State Government specially created to deal with local affairs. When a Town Board is granted a Constitution under the Local Authorities Elections Ordinance of 1950 and at least a majority of members are elected, it is styled a Town Council. It does not become a financially independent body until it is granted financially autonomous status by the State Government. Financially autonomous status can also be granted to Town Boards and a Town Board need not necessarily have to become a Town Council with an elected majority before it receives financially autonomous status.

165. At present, there are 37 Town Councils, of which 27 are financially autonomous, and 37 Town Boards, of which 6 are financially autonomous.

166. Town Councils and Town Boards are much less independent than the Municipalities and have to rely on the State Governments for the provision of services because they have not the self-contained financial resources like the Municipalities.

167. Generally, the President or Chairman of the Town Council or Board is the District Officer, who is responsible for the day-to-day administration of the Council or Board.

168. The District Health Officer and the District Engineer, who are Federal officers serving in the States, are appointed members of a partially elected Council or Board.

Their role is advisory on the Council or Board. The Town Councils and Town Boards also rely on the State Secretariat for legal, financial and technical assistance.

169. Although the unofficial or elected members of the Town Councils or Boards have a large voice in the formulation of the policy and the making of decisions, nonetheless, whenever there is a conflict on any matter between the President/Chairman and the unofficial or elected members, such matters are referred to the Ruler-in-Council, whose decision shall prevail.

170. In the case of a fully elected Council with an elected President, no officials are appointed to sit on the Councils.

171. The Town Councils and Town Boards in the States of Selangor, Perak, Pahang, Kedah, Perlis and Negri Sembilan operate under the Town Boards Enactment (F.M.S. Cap. 137). In the case of Trengganu the Town Councils and Town Boards operate under the Trengganu Town Boards Enactment (Cap. 64) whilst those in Johore operate under the Johore Town Boards Enactment (No. 118). The various provisions in the three aforementioned Enactments are almost identical in their content. In the State of Kelantan, however, the Town Councils and Boards are governed by the Kelantan Municipal Enactment of 1938.

Rural District Councils

172. Rural District Councils are to be found only in the States of Penang and Malacca. They were formerly called Rural Boards and they differ from Town Boards only in that their areas of jurisdiction cover an entire administrative district. Like Town Councils, as and when they are granted a Constitution providing for elected members they were styled Rural District Councils.

173. To-date, there are seven such Councils in existence, though they do not share a common nomenclature. For instance in Malacca they are still called Rural District Councils. In the State of Penang, the Council on Penang Island is called the Rural District Council whereas the Councils in Province Wellesley are called District Councils. Four of these Councils in Penang are fully elected with each of them having an elected Chairman and enjoying financial autonomy whilst the three in the State of Malacca are non-financially autonomous and partly elected with the respective District Officer as Chairman.

174. They are dependent on the State and Federal Governments to the same extent as the Town Councils and Town Boards which are non-financially autonomous.

Local Councils

175. Local Councils, as explained earlier, are the most recently created form of local authority in West Malaysia which were established as a result of the Emergency declared in 1948.

176. From the very beginning Local Councils were fully elected with elected Chairmen and enjoying financial autonomy; the main exceptions being the right of the District Officers to approve budgets and by-laws and that of the Menteri Besar of nominating members not exceeding one-third the number of elected councillors to represent minority interests.

177. Local Councils operate a simple form of rating but receive a considerable measure of grant-in-aid. Except for the junior staff who are directly employed by these Local Councils, they are very much dependent on the State Government for technical services and assistance.

178. This category of local authority, although the most recent in form, number largest. To-date there are 289 Local Councils.

179. All Local Councils throughout the country operate under the Local Councils Ordinance, 1952.

RELATIONSHIP WITH THE FEDERAL AND STATE GOVERNMENTS

180. All legislations governing the constitutions, powers and functions of local government vest with the individual State Governments. The Federal Government's power is limited to legislation for the sole purpose of ensuring uniformity of law and policy, and to the giving of advice, technical assistance, publicity, and the like. The day-to-day working of local authorities in the Federation is therefore within the competence of the State Governments, the Federal Government being concerned only with basic policy relating to local government as a whole.

181. An important milestone in the development of a national policy for local government, as explained earlier, was the creation of the National Council for Local Government. This is a Constitutional Body established by an amendment to the Malaysian Constitution in 1960. The National Council for Local Government is empowered to formulate a national policy from time to time for the promotion, development and control of local government throughout Malaysia and for the administration of any relevant laws. The National Council for Local Government is made up of one representative from each State Government who is invariably the Menteri Besar or Chief Minister as well as an equal number of representatives of the Federal Government who are all Cabinet Ministers under the Chairmanship of a Minister, who is normally charged with the responsibility for Local Government. Both Federal and State Governments are bound to implement any policy formulated by the Council.

182. With the advent of Malaysia, the States of Sarawak and Sabah, although not bound to accept the advice, are required to consult the National Council for Local Government on all matters pertaining to legislation on local government. Provision is also made in the Malaysian Constitution for these two States to become full members of the Council, at a subsequent date, should they so desire.

SUSPENSION OF LOCAL GOVERNMENT ELECTIONS

183. Election to local authorities under the Local Government Elections Act, 1960, has in fact been held on only one occasion. Election to Local Councils throughout the country, with the exception of those in the State of Trengganu, was held in 1962. The delay in the holding of Local Council elections in Trengganu was occasioned by the fact that the Elections Commission had not been able to delineate the electoral wards on time. However, election to Local Councils in the State of Trengganu was held in 1963. In that year, too, elections to all other local authorities, namely, the Municipalities, Town Councils, District Councils and Rural District Councils, were held.

184. Elections to local authorities which would normally have been held in 1965 and 1966 respectively were not held because of the outbreak of open hostilities between Indonesia and Malaysia towards the latter part of 1964. A Proclamation of Emergency was declared throughout the country on September 3, 1964. Two regulations under the Emergency (Essential Powers) Act, 1964, namely, the Emergency (Suspension of Local Government Elections) Regulations, 1965, and the Emergency (Suspension of Local Government Elections) (Amendment) Regulations, 1965, were made which suspended all local government elections during the period the state of Emergency was in force. The Regulations referred to above not only provide for the existing councillors to hold office before such time as fresh elections are held but also specify the manner in which vacancies in local authorities are to be filled during the period of the suspension of elections. Briefly, whenever the seat of a councillor shall become vacant by reason of his death or his having been found or declared to be of unsound mind, the councillor's seat, if he was an elected councillor, the State Authority shall appoint any person recommended by the political Party of which he was a member to fill that vacancy. In all other circumstances, seats becoming vacant shall be filled by any person appointed by the State Authority.

185. Although confrontation is over and friendship between Indonesia and Malaysia has been restored, the Proclamation of Emergency has not been revoked. The reason furnished by the Government for not revoking the Proclamation of Emergency was that the security of the country was still threatened by the subversive activities of communists within the country. At the time of writing this Report, the suspension of Local Government elections is still in force.

RECENT DEVELOPMENTS

186. Since the appointment of this Commission in July, 1965, the administrations of two Municipalities and three Town Councils have been taken over by the respective State Governments. The circumstances of the take-over of the aforementioned local authorities are as under:

(i) the Seremban Town Council was taken over by the State Government and administered by the Menteri Besar with effect from 23/7/65 because of alleged maladministration and malpractices. A Commission of Enquiry under Mr Justice Lee Hun Hoe has since established that there has been maladministration and malpractices committed by councillors. As such, the Seremban Town Council continues to be administered by the Menteri Besar, Negri Sembilan;

(ii) the administration of the Penang City Council was taken over by the Chief Minister with effect from 1/7/66 and a special Commission of Enquiry under Dato' Justice Abdul Aziz bin Mohd. Zain has since established that acts of maladministration, malpractices and breaches of the law have been committed by both councillors and officials of the City Council. In view of the findings of this Commission the Penang City Council continues to be administered by the Chief Minister;

(iii) the Johore Bahru Town Council was taken over by the Johore State Government with effect from 17/4/66 on grounds of alleged maladministration and malpractices;

(iv) in the case of the Malacca Municipality which was taken over by the State Government with effect from 21/9/66 and the Batu Pahat Town Council which was taken over by the Johore State Government with effect from 4/5/66, the State Governments were of the view that these two local authorities were unable, for financial reasons, to continue to discharge their duties and functions effectively. At the time of writing this Report the Municipality of Malacca and the Batu Pahat Town Council continue to be administered by the respective State Governments.

187. As distinct from taking over of the administration of a local authority, a State Government has also exercised its power of dissolving a local authority. This has happened in the State of Johore where Minyak Beku Local Council was dissolved on February 1, 1966, on the ground that it was unable to function effectively.

CHAPTER III

CONCEPTS AND OBJECTIVES OF LOCAL GOVERNMENT

CONCEPTS OF LOCAL GOVERNMENT

188. At present not the whole of West Malaysia is served by local authorities. Areawise, only a small fractional part of the country has local authorities. On the other hand, populationwise, more than half the population of the country lives within the areas of local authorities. In 1966 the estimated population in West Malaysia was 8,415,000. Of this, 4,694,643 (55.8%) lived in local authority areas. In terms of area, the local authorities throughout West Malaysia cover slightly over 3% of the country. That is to say, of the total area of 52,000 square miles, local authorities cover only approximately 1,721 square miles.

189. Has the time now come for local authorities to serve the entire country and people? If so, what are the reasons for this country-wide expansion? If not, can they carry on as they are now? In which capacity would they be effective instruments of service? Or is there a need for local authority of any kind at all in view of the existence of the State Governments which can also serve as local governments? These are basic questions which agitated our minds both during and after our country-wide enquiry. Naturally these led us to the fundamental objectives of local government. It is necessary to have a clear appreciation of the concept of local government before we delve into specific considerations.

Definition

190. One of the first questions we have to ask ourselves is whether a local authority is a local government. The words "authority" and "government" have been freely and interchangeably used without any distinction in meaning. Local government, however, is a generic term covering all categories of local authorities, whereas a local authority is referable to a particular category of local government.

191. There is no precise definition of the term "local government" though many of us do know what it means and portends. It may be useful to reproduce the definition of "local government" as conceived by the United Nations:

> "The term local government refers to a political sub-division of a nation or (in a federal system) State which is constituted by law and has substantial control of local affairs, including the power to impose taxes or exact labour for prescribed purposes. The governing body of such an entity is elected or otherwise locally selected." [1]

This definition is both broad and adequately comprehensive. The Bureau of the Census in the United States has laid down three general criteria in determining a local government. First, it must have existence as an organised entity with such corporate

[1] Emil J. Sady "Improvement of Local Government and Administration for Development Purposes" Journal of Local Administration Overseas, July 1962 pp. 135-148. Harold F. Alderfer, Local Government in Developing Countries (1964) p. 178.

powers as the right to sue and be sued, to make contract and to own property. Second, the unit must possess governmental character. Third, it must enjoy substantial autonomy as evidenced by fiscal and administrative independence subject only to requirements of State law and supervision.[1] Professor William Anderson (University of Minnesota) clothes a true local government with the following elements (1) territory, (2) population, (3) continuous organisation, (4) separate legal identity, (5) independence from other local units, (6) governmental powers and functions, (7) power to raise revenue.[2] John J. Clarke has attempted a short definition of local government within the empericism of England. He says:

> "Local Government is that part of the government of a nation or State which deals mainly with such matters as concern the inhabitants of a particular district or place together with those matters which Parliament has deemed it desirable should be administered by local authorities, subordinate to the Central Government. The local bodies so charged with the administration of these functions are, in the main, elective."[3]

192. The foregoing definition and illustrations have been given to provide a meaningful comprehension of the basic essence and elements of local government as generally understood in democratic countries. From these we can deduce the following concepts of a local government:

(i) A local government is a government confined to local affairs assigned to it by a superior government, which may be a Central Government in a unitary State or a State Government in a Federal State.

(ii) A local government is subordinate to the Central or the State Government and is subject to the control and supervision of the relevant superior government.

(iii) A local government is autonomous to the extent of the autonomy granted to it by the superior government. Such autonomy is usually in respect of fiscal, functional and administrative powers.

(iv) A local government is representative or non-representative in character. If it is elected it is representative. If it is not elected it is non-representative. Whether it is representative or not it can still be granted autonomous status in financial, functional and administrative matters.

(v) It is a separate legal person as distinct from the superior government or other local government units with power to sue and be sued, make contracts and own property.

(vi) It functions in a defined area and serves the inhabitants of the area by providing the services which it is authorised to provide.

[1] United States Department of Commerce, Bureau of the Census, Governments in the United States in 1952, State and Local Government Special Studies: No. 31, Washington D.C. (1953), pp. 6-7.

[2] William Anderson, The Units of Local Government in the United States Public Administration Service No. 83 (1949), pp. 8-10.

[3] John J. Clarke, The Local Government of the United Kingdom (1955), p. 1.

Infra-Sovereign

193. It is important to recognize the local government as one of the four-types of governments in the present day world which is very conscious of sovereignty.[1] They are:

(*a*) the supra-sovereign government, e.g. European Economic Community in which several governments have coalesced portions of their national sovereignties for mutual advantage.

(*b*) Sovereign national government, e.g. most independent national or central governments throughout the world which may be unitary or federal in character.

(*c*) Quasi-sovereign State Governments, e.g. State Governments of sovereign national governments which are federal in character, as in Malaysia, India, United States and Australia.

(*d*) Infra-sovereign local governments. These do not have the element of sovereignty at all. They are below sovereignty. Nevertheless they are a specie of governments even though they may be called Authorities.

194. During our enquiry it was raised that local governments are fundamental units of government and they are also repositories of sovereignty in the country. We wish to make it clear that this is fallacious thinking. Local Government in our country, as elsewhere in the world, is infra-sovereign. That is to say, it is not identified with sovereignty at all unless it is expressly provided. The only two types of governments that are identified with sovereignty in Malaysia are the Central Government and the State Governments. Our Constitution is the product of an Agreement reached between the various component States which had agreed to surrender parts of their sovereignty to the Federation and retain to themselves certain other parts. In this the local government has no locus at all.

195. The local government within our Constitutional context is no more than an administrative rationalisation and convenience. In strict constitutional parlance the presence or absence of local government within West Malaysia cannot be identified with or corelated to the element of sovereignty. Here, as in most other countries, a local government is a creature of a superior government. As it can be created, it can, in the same manner, be dissolved or muted. So long as the due legislative and administrative process of creation, dissolution or mutation is followed, no challenge can be made as to the procedure though the wisdom of such act or acts can always be questioned elsewhere. Therefore there is no valid basis in this country, at any rate, to argue that local government is sovereign-oriented and therefore its existence should never be put in jeopardy.

196. It is totally another matter to press for a representative form of local government on the time-honoured concept "No taxation without representation". The premise of this argument is entirely different from that which tries to propound that local government is sovereign-oriented.

[1] Samuel Humes and Eileen M. Martin "The Structure of Local Governments throughout the World", International Union of Local Authorities, The Hague, Martinus Nijhoff (1961), p. 1.

Competence

197. The character of a local government can be viewed from the angle of competence. The competence of a local government is derived in one of two ways. It may be derived from a Constitution, as in Denmark and several other countries. A competence derived from a Constitution is usually called the "inherent competence". This denotes general authority to do anything which is not specifically prohibited or is not granted exclusively to another authority. This is wider in scope than the competence granted to local government in England and generally in countries where the Anglo-Saxon laws are practised. In these countries the competence is not derived from Constitutions. Therefore it is not inherent in nature or scope. On the other hand it can only do an act that is specifically authorised by Statute. It cannot do a thing even though it is not specifically prohibited. As stated by Samuel Humes and Eileen M. Martin, "Anglo-Saxon local units have no such thing as inherent competence, for if there is no competence to undertake something it is beyond their competence, or *ultra vires*".[1] We in Malaysia have been following the Anglo-Saxon doctrine of competence. This doctrine makes it very clear that in countries where Anglo-Saxon laws are practised, local government units are sub-ordinate bodies with pre-ordained competence and that they do not enjoy any residue of sovereignty or inherent competence. A correct and a perspective understanding of this basic doctrine of local government in Malaysia is necessary to avoid confusion about the status of local government and its relationship *vis-a-vis* that State and Central Governments.

198. A local government unit's competence may be channelled through three ways. It may be through:

(*a*) Devolution.

(*b*) Deconcentration.

(*c*) Decentralisation.[2]

199. *Devolution.* This method confers powers to formally constituted local government units. The powers may be specified or they may be residual functions that a superior government may not have reserved to itself. Whether the powers are specified or residual they are not obligatory on the part of the local government unit to exercise. They are wholly discretionary.

200. *Deconcentration.* This process operates by a delegation of authority by the departments of a State or Central Government to the staff of a local government unit. Under this authority a local government staff performs the functions of a department of a State or Central Government. In other words, a fully deconcentrated local government is no more than an extension of a department of a State or Central Government. In this respect a non-financially autonomous Town Board in West Malaysia can be described to be a wholly deconcentrated local government unit.

201. *Decentralisation.* This method combines the element of deconcentration and devolution. In other words, it has both discretionary or permissive powers as well as obligatory powers to exercise.

[1] Samuel Humes and Eileen M. Martin "The Structure of Local Governments throughout the World". International Union of Local Authorities, The Hague, Martinus Nijhoff (1961), pp. 38 & 39.

[2] Henry Maddick, "Democracy, Decentralisation and Development" Asia Publishing House, London (1963) p. 23.

202. We have to have a clear appreciation of the process of competence under whi most of our local government units fall. They are not wholly devolved or deconcentrate They do not enjoy residual or inherent power. All their powers are statutorily specifie Their powers are partly discretionary and partly obligatory. So, barring the no financially autonomous Town Boards, they are all decentralised. In other words, if tl specified powers are obligatory they must execute strictly. If they are discretionar; they may or may not exercise them. If they act outside the scope of their powers, the will be acting *ultra vires*. This is generally the essence of local government competenc in the Anglo-Saxon countries. It is so here.

203. Decentralised local government does not exist in a vacuum. It exists in a contex of co-relative responsibility. It is not independent. It can never be. In a unitary structur it is related to the central government. In a federal structure it is related to the stat and the central governments. In both cases it is the primary government. In either instance it is subordinate in status. Its devolved or deconcentrated or decentralised character is incidental to or reflective of the political philosophy of a country.

204. If a local government is devolved or deconcentrated or decentralised, it is only a means to an end. The end objectives are both national and local. If a local government provides its local services efficiently, to that extent it stimulates national growth, cohesion and stability. Whether there should be representative participation in providing the services is another question. This again depends on the objectives and the mode of competence.

205. Malaysia has adopted the policy of promoting decentralised local government. This policy is still in process. There are many local authorities which are more deconcentrated in competence. The policy of the Malaysian Government in promoting decentralised local government has not been well defined or stated. As stated earlier decentralisation began during the height of Emergency and before Merdeka. This was in 1950. Its main objectives were: promotion of nationalism, democracy and autonomy.

OBJECTIVES OF LOCAL GOVERNMENT

206. Dr A. F. Leemans characterises the objectives of decentralisation into two main groups: ideological and utilitarian.[1] The former is based on political ideology. The latter is based on the attainment of certain results. Both touch upon value judgments and norms and in respect of man and society. In promoting decentralised local government not all central or state governments are fully cognizant of the objectives of decentralisation or of the hierarchy of priority the objectives should be given.

207. Dr A. F. Leemans sets out five objectives of decentralisation. They are:

(i) National Unity.

(ii) Democracy.

(iii) Freedom.

(iv) Efficiency of the Administration.

(v) Social and Economic Development.

[1] Dr A. F. Leemans: Changing Pattern for Local Government. A Report for the 1967 Stockholm Conference on Amalgamation or Co-operation.

208. It is necessary for us to analyse the above objectives within the context of West Malaysia. These objectives can be used as yardsticks to assess the usefulness or otherwise of local authorities in the country. As a means, decentralisation has already been adopted to promote local government. We have to assess now whether the above objectives could be attained by decentralisation. If we cannot attain the objectives then there may be a justification to resort to the other means, namely, deconcentration. The objectives of deconcentration can be characterised as follows:

(i) National Unity.

(ii) Efficiency of the Administration.

(iii) Social and Economic Development.

It should be observed that democracy and freedom are not compatible with deconcentrated local government, such as the non-financially autonomous Town Board. Let us consider the objectives of decentralisation in their sequence.

National Unity

209. National Unity is a fundamental requisite in all new countries and nations. National unity must be distinguished from political unity. There can be healthy political divisions in a democratic country but not divisions on basic national concepts. The primary concern of a nation is to preserve national unity. When a national constitution is drawn and National and State Governments are established, one of the primary considerations is to see that the centrifugal forces are kept down to the minimum so that national cohesion and consolidation would not be undermined.

210. The Malaysian Constitution provides two power centres, the Federal Government and the State Governments. Between these, the Constitution has provided a pattern of balance so that there would be little scope for centrifugal forces to use the State Governments to undermine the cohesion of the Federal Government. On the other hand the Constitution has been so drawn to encourage the mobility of the centripetal forces towards the Federal Government so as to stimulate, consolidate and reinforce national unity. The local government, however, has not been recognised as a power centre in the Constitution in the manner the Federal and the State Governments have been recognised.

211. In Malaysia, the local government has been created as a power centre by the State Governments. It is realistic to expect that a State Government will not be too eager to set up decentralised local government that may become a power centre to the extent of effectively competing or excelling the State Governments. In the case of George Town, we sensed this concern. The City Council of George Town is almost twice as rich as the State Government of Penang. Finance means power and this has created a power centre that has irked the eyes of the State Government. The question here is whether the wealth of the City Council has in any way undermined the strength of the State Government? Or whether it has in any way affected the national unity? It is difficult to answer these questions in the affirmative. On the other hand there had been active political divisions in the City Council area. For many years the City Council had been in the hands of a party, opposed to the party in control of the State Government. But this, in itself cannot be said to be harmful to national unity, though the Labour Party on two occasions during the time when it was in control of the City Council of George Town had behaved in a centrifugal manner in matters of national

unity and importance. To avoid recurrence of such behaviour, built-in remedies are necessary which we shall deal with at a later stage. While political divisions should be tolerated as an inherent exercise in democracy, forces that disrupt or erode national unity should not be allowed to emerge in the affairs of local government.

212. West Malaysia has its own peculiar problems in cementing national unity. The country has three major and distinct ethnic groups. Various efforts are being made to weld them into one nation. This is a fundamental objective. Like other factors, every power centre has an important role in this process. What is the role of the local government in this? Or how can local government, as a power centre, be re-structured to serve as a basis for national cohesion?

213. At present the local government in West Malaysia is not serving as an effective basis to reinforce and consolidate national unity. Local authorities here are either urban-based or rural-based or urban and rural-based.

214. In all, there are 373 local authorities in the country. Of these, 40 are wholly urban; 44 are partly urban and partly rural; 289 are rural villages. In the wholly and partly urban areas the majority of the people are generally from one ethnic group. Even in most of the rural areas where there are local authorities, the majority of the people are from one ethnic group, e.g. in the new villages where Local Councils have been established.

215. Though the presence of largely one ethnic group in the urban or urban centred areas is incidental, in our view such a situation is not conducive to enable the local authorities in these areas to operate as instruments to reinforce national unity.

216. During our enquiry we sensed centrifugal attitudes in a number of places, particularly in newly resettled villages where the people are by and large, if not exclusively, from one ethnic community. These attitudinal phenomena have developed due to various factors. They could be categorised as follows:

(i) the villages have been largely left to themselves with very little outside participation or guidance.

(ii) being almost of one ethnic and language group, they have tended to be parochial and narrow in their political outlook.

(iii) many local councillors demonstrated an impression that they are nearest to the people and as such they are the true representatives of the people and their local authority a kind of a "people's regime".

(iv) they are unable to identify themselves with the State Government and to regard it as their Government.

(v) they revealed a kind of suspicion against the District Officer and the officers of the State Government as symbols of external officialdom having control over them.

(vi) they showed a mild antipathy towards the State Governments and the control exercised by them over their local authorities.

(vii) they could not understand why a part of the various taxes and licence fees they pay to the State and Central Governments should not be returned to them for the use of their local authorities so that there would be no necessity to impose rates in their areas.

217. Cumulatively, the above factors indicated an attitude that was inward, withdrawn, narrow, suspicious and unable or unwilling to comprehend regional or national identification. In our view local government preserved and sustained on these warped attitudes, would not be healthy or dynamic and would not be compatible with the objectives of nation-building. On the other hand, if not checked and corrected, such local authorities will eventually grow to be nests of resentment, chauvinistic bigotry, and antithetic to national unity.

218. It is to be noted that local authorities that evinced such attitudes were largely in the West and more developed parts of West Malaysia. On the other hand, in the eastern parts of West Malaysia, particularly in the States of Kelantan and Trengganu, we noticed in rural areas a more outspoken and willing identification with the State Government. This identification even prompted some representatives of local authorities to suggest that Local Councils be abolished and that the State Governments be left to provide deconcentrated service at local levels. It is to be observed that most of the rural people in the eastern parts of West Malaysia are persons of Malay origin and the majority of the people in most of the local authority areas in the west are persons of non-Malay origin.

219. It is our considered view that it is undesirable to have local authorities to be represented by members largely of one ethnic community, even though such members may belong to different political parties. In a homogeneous society this may not be a serious problem but in a multi-racial society such as ours local authorities should be so structured as to reflect the multi-racial character of the population. This is necessary :

(i) to bring about citizen participation and co-operation in local government on a secular basis;

(ii) to encourage thoughts and acts in a manner transcending ethnic barriers;

(iii) to bring about representation from rural and urban areas so that councillors representing these two areas can co-mingle, deliberate and decide for the welfare of a wider area and for a mixed population.

220. For the above purpose, we are of the view that the present structures of local authorities are unsuitable. Most of them are too fragmented and small. They will have to be amalgamated on a wider and regional basis so that they can serve both rural and urban areas. If this is done local authorities will cover larger areas embracing within their folds rural and urban population. Such representation would generally be multi-racial and seldom will it be limited to one racial group. A local authority providing multi-racial representation will be more conducive to the growth of centripetal attitude towards national unity.

Democracy

221. This is the second objective of decentralisation. In essence, this means that the constitution of a local government is provided on the basis of elective representation for the people in a local area. In this sense it has received recognition as a pattern of government in many countries of Europe and in North America. It is common knowledge that it was the French Revolution that generated democratic concepts in Europe. These gradually resulted in democracy being the ideological basis for decentralised local

government in several European countries. The concept of grass-root democracy that took shape in England was exported to the Commonwealth and dependent territories with varying degrees of effectiveness.

222. Introduction of local democracy into dependent territories did not coincide with the granting of independence to these territories. Nearly always it preceded the granting of independence in many such countries. In West Malaysia (then Malaya) it was introduced by legislation in 1950, seven years before independence. In India, elected local government was a common feature decades before its independence in 1947. Not merely in British colonial countries do we see this trend. Local self-governing decentralised bodies have even been introduced in independent countries whose central governments have been autocratic or authoritarian. A glaring instance was Czarist Russia. In more modern times countries like Pakistan and Nepal have introduced what has been described as "basic democracy" and panchayat which provided elective and decentralised local governments while at the national levels their governments were not fully representative in character.

223. Local democracy has been coveted even by many authoritarian regimes for obvious reasons. From their point of view, democracy at the grass-root level would be harmless. It would not pose a challenge to national leadership. On the other hand, it would serve as a safety-valve against political conflicts and pulls at the national level. Further, it would operate as an out-let for the natural urge of man to give vent to his feelings on matters of public interest. If it got out of hand it could always be contained and controlled with relative ease. It would also impress the outside world that the country is not wholly devoid of democracy.

224. Local government has been said to be a good training ground or nursery for democracy. This concept has been accepted and practised in countries of Western Europe, North America and in most Commonwealth countries. It is noteworthy that it has also been recognised in Eastern European countries, for instance, in Poland. Here, it is said that people's councils have been established to bring about participation of the local people in the governing process.

225. Since the Second World War, many Asian and African countries have accepted similar ideological concepts in setting up democratic local government as part of their national systems of government and administration.

226. Even in West Malaysia this has been the ideological pursuit. Democracy was first introduced in the machinery of local government at a time when communism was trying to install itself by violent means. It was handed to the people as a political weapon in the process of confronting communism. It was not considered just a means to an end. Rather, it was considered necessary as a political exercise for the people in the art of local government. It was also important for the people to feel that they were not being called merely to oppose communism in a vacuum. It was considered necessary to make them feel that in opposing communism they were indirectly preserving democracy.

227. But should local government always be identified with democracy? During our enquiry we have heard that it need not necessarily be. Even in a democratic country local government need not necessarily be identified or clothed with democracy. A country will still be called democratic if its national and the State Governments are democratically established. It is not absolutely essential that its local government too should be so

established. The type of representation to the local government and the mode of decentralisation are matters of policy and convenience for each country to formulate for itself, according to its individual circumstances. There is no universal pattern for it.

228. Though many countries have established local government on democratic basis, it cannot be said that everywhere local democracy has worked well or effectively. This is especially so in small rural areas. Even in European countries, many small rural local government units are still under the control of local squires and the towns and cities are controlled by small oligarchic elites. In developing countries it is not unusual to see local government units being controlled by feudal or tribal chiefs or by the rural aristocracy giving little opportunity to the ordinary rank and file.

229. Even in England, where local government has taken a long and traditional root and where local democracy is still jealously regarded, democracy seems to be floundering in the field of local government. This can be seen from the Report of the Maud Committee on the Management of Local Government in Great Britain. The Committee notes several aspects of local government in Great Britain which are highly undemocratic. It also states that half the electorate in Great Britain does not vote at local elections and over half the seats are uncontested. In their view, this is indicative of the apathy in the exercise of democracy in local government. According to the Report on "Modernizing Local Government" in the United States issued by the Committee for Economic Development in 1966, less than 30% of American adults vote in city elections. It further says "popular control over local governments is ineffective or sporadic and public interest in local politics is not high".

230. Despite the weaknesses of the democratic system, it is still being practised in most of the advanced and developing countries. From time to time reforms and innovations are being made. There does not appear to be a better alternative to democracy even in local government. If democracy is to be replaced it can only be by a nominated system, the merits and demerits of which will be dealt with when dealing with the State Capitals.

231. As a technique, democracy is slow, cumbrous and expensive. Nevertheless, there is strong force in saying that democracy should continue to be identified with local government in this country as in the case of the Federal and State Governments. True, it has not worked effectively in most local authorities, particularly the Local Councils. The remedies lie not in doing away with democracy but in finding suitable avenues to invigorate it. In Malaysia, the road that democracy has travelled in the field of local government is very short and fragmented, both in terms of space and time. No great damage has therefore been done to warrant complete replacement of democracy. What defects that have been experienced can also be attributed to other causes that need a complete innovation, co-ordination and consolidation to improve the system. These we shall deal with at a later stage.

232. In a country like West Malaysia, a suitably restructured local government, identified with democracy, can serve not merely local interests but also reinforce and consolidate national unity, besides sustaining and preserving a democratic institution at the local level.

Freedom

233. This is the third objective of decentralisation. In a local government set-up, there can be no freedom in the full sense of the word. It only means autonomy as granted to it.

234. In several countries freedom has been recognised as an important element in the ideology of local government. By some, it has been regarded even more essential than democracy. For, there can be local government without democratic representation. Even so it can be financially and administratively autonomous to a great degree. In West Malaysia, there are 6 Town Boards which are financially autonomous but not representative in character.

235. Freedom is one of the three cardinal principles engendered by the French Revolution. In the field of political science it has been greatly advocated by liberal philosophers like John Stuart Mill. For well over one hundred years freedom has been a primary objective in the evolution of local government. It has been aspired to provide greater incentives to operate locally and to avoid or minimise the intervention by the Central Government in the affairs of local government. No doubt the effectiveness of local government largely depends on this concept of freedom. The Council of Europe in its recent discussions on the evolution of local and regional government and the adaptation of the local government structure to the needs of European unity and modern civilization asserts that the reorganisation of local government must be undertaken on the principles of local democracy and municipal freedom.

236. The autonomy or freedom of a local government is related to (*a*) finance; (*b*) administration; and (*c*) functions.

237. Financial autonomy does not mean complete financial independence. This is not feasible or desirable in the case of local government. In West Malaysia, financial autonomy has a limited meaning. It is essentially the power to levy, collect, retain and spend its rates and fees. But the annual estimates of income and expenditure have to be approved by the respective State Governments. Financial control of this kind is universal and not peculiar to our country.

238. Administrative autonomy means the power to hire and fire employees. All financially autonomous local authorities in West Malaysia have this power with some qualifications. In the case of Municipalities, creation of any new office with a monthly salary of $500 and above, requires the approval of the respective State Governments. In the case of a financially autonomous Town Council the State Authority is empowered to appoint the Secretary. In appointing its Secretary/Treasurer a Local Council is required to obtain the approval of the District Officer of the district in which the Council is situate.

239. Functional autonomy really touches upon the element of competence that has been dealt with earlier. It depends upon the extent of powers granted to a local authority. Allocation of powers to local government differs throughout the world. There are countries which follow the principle of universality. This principle enables the allocation of all the powers of local government that are not expressly reserved for the Central or State Governments. In other words, it is an inherent competence or autonomy as stated earlier. There are other countries which follow the principle of enumeration. That is to say, the powers of the local government are expressly enumerated and what is not enumerated remains with the State or Central Government. This is the system that is followed in West Malaysia generally and in other countries where the Anglo-Saxon law is practised.

240. Allocating powers on the principle of universality has its advantages. It grants a wider scope to local government. It provides opportunities for incentives and experimentation. It is not rigorously restrictive. But under this system a local government might not be able to resist the temptation to over-stretch and run into difficulties to the disadvantage of its ratepayers. It may, however, work well in a developed country with a sound local government tradition. But it might turn out to be an unruly horse in a young and emerging country.

241. The principle of enumeration, on the other hand, lends itself to certainty. Only the powers granted can be exercised. By this way, a local authority may not be allowed to bite more than it can chew. This will be useful, if not desirable, in a developing country without a sound local government tradition; though undoubtedly it is restrictive and can be rigid.

242. In a country there can be a single pattern of local government, as in Sarawak with the exception of the Kuching Municipality. This is called the pattern of uniformity. Under this, a single law governs a single pattern of local government. Conversely, there can also be a pattern of diversity, as at present in West Malaysia. We have Municipalities, Town Councils, Town Boards, Rural District Councils and Local Councils. These are not governed by a single law but by different laws and provide a diverse pattern.

243. Whether a pattern is diverse or uniform the principle of allocation of powers should be flexibly exercised. That is to say, even under a uniform system powers may be allocated on a varied and flexible basis. One local authority may be given more powers than another on the criteria of financial and administrative capability. The same principle can be applied under a diverse system. This flexible approach is strongly recommended by Professor Maddick which he calls the "System of Graduated Responsibility".

244. In considering the question of functional autonomy, the doctrine of *ultra vires* needs to be evaluated. This is widely relied upon in countries where the powers of local government are expressly enumerated, as for instance in Malaysia and in other countries where the Anglo-Saxon system is followed. If a local authority acts beyond its statutory sanction, it will act *ultra vires* its powers. In which case, its act will be struck down by the court as being invalid. This will be so even if the act is well intended and is likely to benefit the ratepayers. So long as it is outside the boundary of its statutory sanction, it will be *ultra vires* even if it provides fringe benefits. This is a rigid doctrine and has been strictly applied by the Courts.

245. As against this, is the doctrine of "general or inherent competence" practised in countries of continental Europe, like Sweden, Germany and Holland. This doctrine enables local governments in these countries to render at their discretion whatever services the community needs, provided they do not encroach upon the functions of other governmental authorities. Their powers and duties are not limited to those expressly prescribed by the law. They are given a reservoir of discretionary powers with which over the years they have indulged in an impressive range of services, e.g., airports, maintenance of forests, savings banks, hotels, district heating and many cultural and entertainment activities. They have also joined with other kinds of enterprises on a voluntary, co-operative or joint-stock basis.

246. In such circumstances, what is of real importance is not the provision of discretionary powers itself but the psychology it generates. The members of local authorities with the power of general competence are able to feel that they are responsible for the general welfare of the citizenry and that it is their duty to keep finding new avenues to improve that welfare. They are not curbed by specific powers and so long as they do not infringe upon the powers of other authorities, they have a fair degree of scope to be venturesome and enterprising in promoting general welfare. In countries that follow the doctrine of general competence, even the supervision by a higher authority has taken a different form. The Central Government's supervision is not so rigid. Under general competence it permits the local government to do what is generally good for the community. Any check by the Central Government is limited to the general conduct of the local government. Such broad and limited checks have reduced the necessity for laws and regulations for individual services. The real significance under this system is the outlook of the central and local governments. Even the public has been encouraged to consider that it is the responsibility of the local government to provide local services dictated by the needs of the community. In the *ultra vires* system, the public on the other hand, has tended to look towards the Central Government for new services.

247. But one should not get away with the impression that the doctrine of general competence grants a blank cheque to local government. It is of course subject to qualifications. It is interesting to note the restrictions imposed on the doctrine of general competence by the Courts in Sweden. They are:

(*a*) local authorities may not normally engage in speculative enterprises having no objective other than economic profit;

(*b*) they must have legislation to cover grants to private individuals or groups of individuals;

(*c*) they may not favour or discriminate against particular groups of individuals;

(*d*) they may not alienate property to an industrial enterprise without compensation;

(*e*) they may not guarantee loans to private enterprises to prevent them leaving the area.

There is the other general restriction that the local authority shall not encroach on the duties and the powers of other public authorities.

248. The Maud Committee on the "Management of Local Government" in England has recommended that local authorities should be given general competence to do (in addition to what legislation already requires or permits them to do) whatever in their opinion is in the interests of their areas or their inhabitants, subject to (*a*) their not encroaching on the duties of other governmental bodies and (*b*) appropriate safeguards for the protection of public and private interests.

249. The Maud Committee believes that "this extension of power would in due time induce much less negative outlook in those concerned with local government both at central and local levels while at the same time the citizens' needs would be better catered for". The Committee thinks that these services should be "marginal and supplementary" and would not in any way detract from the benefit of a much needed

reform. It further views that "*ultra vires* as it operates at present has a deleterious effect on local government because of the narrowness of the legislation governing local authorities' activities. The specific nature of legislation discourages enterprises, handicaps development, robs the community of services which the local authority might render and encourages too rigorous overseeing by the Central Government. It contributes to the excessive concern over legalities and fosters the idea that the clerk should be a lawyer".[1]

250. Dr A. H. Marshall, Senior Research Fellow in the Department of Local Government and Administration in the University of Birmingham refers to the following substantial advantages of the doctrine of general competence:

(*a*) The local authority is encouraged to regard itself as responsible for the well-being of the community as a whole and not as a provider of specified services each regulated by specific statutes.

(*b*) There is the practical value of the freedom for local authorities themselves to expand their activities or to do so by participating in the efforts of other bodies.

(*c*) Dependence on statutory power for each function invites regulations, detailed scrutiny, comments, returns, inspections and the like.[2]

251. The above views highlight the desirability of softening the rigours of the *ultra vires* doctrine. It is also significant to note that the supremacy of the doctrine of *ultra vires* has been eroded to some extent even in countries where the Anglo-Saxon system of local government is in practice. In the United States we hear little of it these days. It is due to the fact that so many cities there have been granted "home rule" charters. In Canada a liberal interpretation has been put on the doctrine, thus reducing the rigour of it.

252. It should be observed that conferment of general competence to a local authority does not mean that it would completely cease to be subject to the rule of law. It is also interesting to note that in recommending the adoption of the doctrine of general competence the Maud Committee does not advocate the elimination of the doctrine of *ultra vires*. In its views the local authorities would still have to function under the framework of statutes as "they would continue to have statutory duties and limitations imposed upon them and permissive powers granted to them and their governmental and cohesive powers would be regulated by law. They would however have, in addition to their specific statutory duties and permissive powers, general powers to meet the needs of the community".

Efficiency of the Administration

253. The fourth objective of decentralisation is efficiency of the administration. During our enquiry, there was a great deal of argument in favour of efficiency as against democracy. In the field of local government what is more important, efficiency or democracy? Can efficiency and democracy co-exist? Or is one an anathema to the other? We heard three types of views: (*a*) Those who strongly advocated efficiency

[1] Committee on the Management of Local Government, Volume 1, Report of the Committee. (London, Her Majesty's Stationery Office) pp. 79 & 80.

[2] Ibid., p. 79.

even at the sacrifice of democracy. (*b*) Those who vehemently supported grass-root democracy even at the cost of efficiency. (*c*) Those who recommended the combination and harmonisation of democracy and efficiency.

254. On the international horizon two broad divisions can be seen. In determining the structural pattern of a local government, functional efficiency has been always in the forefront as one of the desirable, if not the very salient, objectives. Countries that had introduced major reforms in local government have always kept efficiency as one of the primary aims of reforms. This particular objective has been a propelling factor in the creation of strong centralised systems making way to deconcentrated local government in a number of countries. Napoleonic France and Turkey provided these patterns of reform at the close of the 19th Century. Similar patterns were also followed by several colonial regimes.

255. Efficiency does not receive that degree of veneration in countries where the tradition of representative form of local government has taken a deep root. It does not mean that efficiency is not desired for its own sake in these countries. But the desire for efficiency does not culminate to the extent of making a destitute of democracy. This is not to say that these countries are barren of the urge for reform. They are equally interested in reforms from time to time, but their motivations for reforms are more geared to making the local government more adaptable and flexible to the changing needs of the time. Such reforms, for instance, were introduced in the United Kingdom and Sweden during the middle of the last century. Local government in these countries began to shoulder more and more responsibilities in such fields as public utilities, education, health and the like as dictated by the needs of the changing society.

256. In modern times, efficiency as an objective has come to be associated with the optimal area of service of local government. It is being increasingly recognised that local government services should, as far as possible, synchronise with the needs of physical planning.

257. All these point to the reduction of heterogeneous local government units and their rationalisation into a more coherent homogeneous unit with a viable area of service. Reduction of unviable local government units in order to enhance efficiency is not regarded as an abridgement of democracy. On the other hand, it is argued it will give meaningful effect to the exercise of democracy. Proponents of democracy accustomed to fragmented forms of local government might in the name of tradition and local participation object to merger of smaller units into a larger unit.

258. Though the changing needs of the time dictate the priority of efficiency, many countries that are concerned in the reform of local government do recognise the importance of the marriage between efficiency and democracy so that they could serve as two sides of the same coin. They regard this integration of the objectives as of prime importance, even if the multifarious units have to be merged into a larger pattern.

Social and Economic Development

259. This is the fifth objective of decentralisation. Should local government operate as an instrument for social and economic development as well or should it confine itself only to its traditional local services? The role of a modern government in social and economic development is comparatively a new concept. It reflects a major shift

from the earlier concept of laissez-faire. The question is, should the Central Government allocate a role for its local government in the social and economic development of the country? Is the Central Government duty-bound to do so? There is no such obligation. The concepts and creation of machinery for social and economic development are, of course, the responsibility of the Central Government, where the State is unitary in character or that of the Central and State Governments, where the State is federal in character. A local government may or may not be called in to participate in such development. This of course depends on the pattern of local government in a country. Where the size of a local government is large and administratively efficient, it may be called in to participate. On the other hand where it is small and fragmented, it might be by-passed.

260. In West Malaysia, local government has not been given participatory roles in the social and economic development of the country. (1) This might be due to the fact that firstly, not the entire country is serviced by local government. (2) Secondly, such of those local authorities that exist are by and large small in size and administratively very rudimentary, barring a few notable exceptions. (3) Thirdly, the State Governments through their deconcentrated officers are serving as tools of local operations to implement development services, quite apart from other field agencies of the Central Government.

261. In this context the local government in West Malaysia has been very much left alone to provide and manage its own traditional services to its inhabitants. Though the first Malaysia Plan 1966-1970 states that "it is of the utmost importance that State Governments and public and local authorities utilise their resources in accordance with the priorities of the plan", very little of the resources of the local authorities are or can in fact be utilised. The Plan further provides that "field tours will continue to be undertaken by members of the N.D.P.C.[1] to visit projects in progress and to assist Ministries, State Governments and local authorities in resolving their development problems". Here again, the involvement of local government in development matters covered by the Plan is very limited, if not nil, in most cases.

262. It is now commonplace for nearly all developing countries to have national development plans. Centrally prepared economic plans are of course sacrosanct in communist countries. Even in the United States there is the policy to create the "Great Society". In most countries it has now become a common feature to ploy and deploy governmental resources to national economic and social objectives at all levels. That is to say, not merely at the central or national level but also at the state or regional level and at the local level. For instance, in India the local authorities have been so organised as to serve as instruments to carry out development activities under the national plan. In many countries it is recognised that a local authority will provide the local populace with the opportunity to participate in developmental activities. A local government is generally regarded as a grass-root instrument not merely for democracy but also for development. This recognition can be seen even in a country that has abridged its democracy at the national level but provided it at the ground level in the name of Basic Democracy. In introducing the Basic Democracies Order, 1959, the President of Pakistan referred to its objectives as "to develop local leadership, to develop pride in their areas, to bridge the gap between people and administration,

[1] National Development Planning Committee.

to bring the people's thoughts to bear on their problems, to initiate them in the art of self-help and collective activities and above all, to release their latent creative energies and to utilize the vast manpower in the country for its development".

263. Even in Europe, the trend of identifying local government with developmental activities is clearly discernible. For instance, the recent reform in Holland provides an example. Several municipalities there have been amalgamated and one of the reasons given by the Dutch Government for the reform was that only larger-sized municipalities would be able to play an effective role in the expected developments designed to bring about major changes in the economic and social structures of the areas concerned. Likewise, laws have been recently introduced in Finland which provide for co-operation or amalgamation of municipalities. The primary aim of amalgamation, in that country, has been directed towards the achievement of adequate community development and promotion of the municipal economy. In Poland, the territorial divisions of the country have been based on the economic requirements of the nation. In England and in France, the idea of a regional government encompassing large areas is being advocated to harmonise with physical planning and economic expansion.

264. Cities and metropolitan areas all over the world are growing in size demanding administrative and structural changes so that they could serve more effectively to meet the social, industrial and commercial expansion. From the foregoing it is obvious that a local government to be effective must have participatory role in the social and economic development of its area. Only then will it have a more purposeful cause for its existence. In order to take part effectively in such activities it must have an optimal service area, a viable economy and a sound administration. In the absence of these, a local government will be unable to take part in the developmental activities in a satisfying manner. So, before it can venture into such participation, a structural reform is inevitable in West Malaysia. Only then can it operate as an effective instrument of service in social and economic development.

Order of Priority of Objectives and their Conflicts

265. We have so far considered the objectives of decentralisation. In introducing a decentralised local government each country is motivated by its own priority of objectives. This of course depends on the factors prevailing in a country. If a country is authoritarian, naturally the objective of democracy will not figure much. If a country is wedded to the policy of market economy, it might not be interested in economic development plan either at the national or local level. If a country is very much attached to democracy and to the idea of participation of the people with their local government, it might not easily give in to any move that would derogate democracy in preference to efficiency by creating larger local units in place of smaller ones. Again, in some advanced countries, particularly in Europe, national unity may not be even an objective of topical importance. In some of these countries national unity has long been consolidated and has not faced any threat of disintegration. In such a situation the question of national unity might not even arise as one of the objectives in the growth of local government.

266. But this is not the case in many young and new nations of Asia, Africa and Latin America. Here, nation-building is still in its nascent stage. Many countries are still struggling to identify themselves as united and integrated nations. At this stage

it is understandable if many of these countries try to identify their constitutional and governmental structures with the all-important objective of nation-building. It is a truism to state that in many of these countries, nations have been created by a stroke of pen and by the cries of slogans without the strong underlying current of nationalism.

267. The problems in Asian and African countries are even more tangled by the presence of heterogeneous forces such as multiplicity of races, languages, cultures, tribes, religions and conflicting regionalisms. In the midst and in spite of all these, nationalism has to be nurtured and nations have to grow. Viewed from this context, it would not be surprising or irrelevant, if national unity as an objective figures with prominent priority in the scheme of constitutional and administrative structures of a young country. These attitudinal phenomena have bearings on the selection of objectives and the phasing of their priorities in the field of local government as in any other field. Dr A. F. Leemans points out the difference between the European countries and the Asian and African countries in this respect. He says: "In European countries, the greatest weight is generally given to democracy and efficiency; economic and social development is rapidly gaining ground, however, particularly where the economic expansion areas are concerned. In Asian and African countries, the most influential factors seem to be the efficiency of the administration and the role of local government in development. National unity is still a very important consideration in a number of these countries and in addition, the democratic ideal is still a source of inspiration to some of them".[1]

268. In Europe, for some time now, an active debate is going on as to what should receive priority: Democracy or efficiency? Western Europe has been veering to a compromise between the two. It is true that for democracy to be meaningful, a local government unit should be small. In which case, there can be a close citizen participation. If, on the other hand, the unit is large, there cannot be that close degree of participation. But a small unit has to be necessarily limited in its resources. Financially and administratively it will be too weak. To that extent its efficiency will be curbed. If the unit is large its resources will be greater and it will be able to provide more services with greater efficiency. It is therefore clear that efficiency demands viability and an optimal size resulting in lesser participation of the citizens. But in view of the changed circumstances and of the need to have regional physical planning, the present trend is in support of larger-sized local authorities.

269. This was recognised in England more than ten years ago. In July, 1956, the British Government published a White Paper on the area and structure of local authorities in England and Wales. It states that "the test of any system of local government in this country should be whether it provides a stable structure capable of discharging efficiently the functions entrusted to it, while at the same time maintaining its democratic character".

270. A similar view has been endorsed by the Committee on Local Authorities of the Council of Europe. Pointing out the conflict between efficiency and democracy it says: "considering that the future of local government depends on the retention and creation of authorities fitted to the performance of their tasks, i.e. ensuring efficient administration, and that for the sake of maintaining and strengthening the principle of democracy, changes in the system seem to be necessary". A similar trend of view can also be seen in a Report on "Modernising Local Government" in the United States, published by the Committee for Economic Development.

[1] Dr A. F. Leemans: Changing Pattern for Local Government. A Report for the 1967 Stockholm Conference on Amalgamation or Co-operation.

271. It is clear from the above that in Western Europe and in North America the emphasis is gaining ground for a balance between democracy and efficiency. And it is within this context that ideas for structural reforms are being expressed.

272. Any reform in any country must of course be based on a balance of considerations. The balance may naturally vary from country to country. No doubt, there will always be conflicts between objectives. It is our task to seek a balance between the conflicting claims. There can be no universal order of priorities. Each country has to work out its own order of priorities as dictated by its own factors.

273. Malaysia is a young nation, active and vibrant and in the throes of development. It has its quota of complexities and peculiarities. Having regard to the context of the country, the following order of priority would be consistent with the tempo of requirements:

(i) National Unity.

(ii) Social and Economic Development.

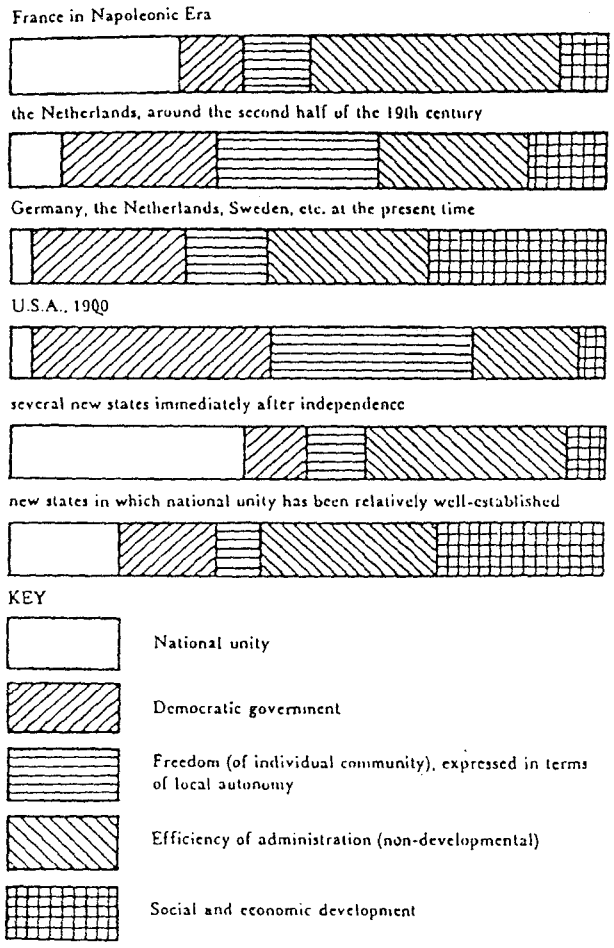
(iii) Efficiency of the Administration.

(iv) Democracy.

(v) Autonomy.

The above order of priorities are not intended to be static. The emphasis on the priorities may change from time to time and in accordance with the changed circumstances. In the present situation, if the local government reform in the country is based on the above priority, then it is likely to be an effective instrument of public administration and a power centre within the overall framework of the country. Any reform based on a different order of priorities may be out of tune with the present and the foreseeable stages of growth of the nation. The reform that we have in mind should provide a basis for balanced growth. It is intended to facilitate a healthy entrance into the twenty-first century.

SCALE OF OBJECTIVES



Reproduced from Dr A. F. Leemans': Changing Patterns for Local Government. A Report for the 1967 Stockholm Conference on 'Amalgamation or Co-operation' p. 22.

CHAPTER IV

ECOLOGICAL CONDITIONS IN RELATION TO LOCAL GOVERNMENT

CONDITIONS FOR REFORM

274. In the foregoing Chapter we discussed the question of concepts and objectives of decentralisation and the order of priority in respect of the objectives. The objectives themselves would not be the basis for reform unless the ecological conditions in relation to local government as a whole call for reforms.

275. Do the ecological conditions connected with local government in West Malaysia justify reforms at this stage? Clearly, no other moment is better suited for an extensive reform than at present. This is certainly the time for a major cure and not for a minor palliative.

276. Why do we say this? Certainly not because this Commission has been appointed to recommend reforms. Not simply because there have been polemic views expressed about the usefulness or otherwise of the present system but mainly because the local government system as conceived and practised in this country has not been wholesome and resilient to meet the fast changing and challenging needs of our times.

277. A reform is not resorted to for its own sake. It must be the result of the needs of space and time. Needs of space and time are conditioned by socio-economic and cultural behaviour of a people. The behavioural pattern of a people reflects the ecological conditions necessary for reform in the field of local government as in other fields.

Psychological Conditions

278. One of the first questions that has to be raised is, will the people of West Malaysia resist any major reform in local government? Would they be receptive to innovative ideas in this field? These questions have direct bearing on emotions attached to historical traditions.

279. In Western Europe and North America people are very traditional minded as regards values such as local democracy, citizen participation, autonomy and so on. They would be less prone to any diminutive changes aimed towards the substance of these values. This is due to the long historical and traditional beliefs of the people in these values and in the institutions clothed with these values. The situation is not quite the same in West Malaysia and in other Asian and African countries. Generally speaking, in these countries decentralised local government is a relatively modern institution and it has not taken that depth of root into the hearts and minds of the people as to constitute norms or values to be overly or passionately cherished.

280. In West Malaysia, the history of modern local government actually commenced in 1950, when the Local Authorities Elections Ordinance was passed. But since then, during the past 18 years the country has been going through phenomenal changes in

all fields. The foundation laid in 1950 has not proved to be satisfactory particularly after Merdeka, when the tempo of the country was geared to development orientation. The political orientation that was given to local government by reason of the Emergency mainly and swiftly in the resettled villages and gradually in urban centres, did not measure up to the rapid changes ushered in by Merdeka. Clearly, there were weaknesses in the entire system and in the response of the people to the system. Together, they generated a situation which has caused frustration of hopes in the system and diffidence in its efficiency.

281. With this mood in the background the country has been ready for a reform for some time and the attitude of the people has been generally receptive to innovations of a major scale. This is not to say that we did not hear fears and suspicions about the wisdom of doing away with the present system entirely in preference to something new. In fact, in some places representatives of Local Councils were quite jealous of their rights and powers and strongly felt that they should be allowed to continue unimpeded. Similar sentiments were also expressed about Municipalities by Municipal Councillors, though many ratepayers urged for drastic changes. Even many members of Town Boards who have got accustomed to the process of nomination as opposed to election defended and advocated the continuance of the Town Board system in the name of stable and efficient service.

282. The views expressed were of course far and wide, ranging from "tidying up" of the mess to total take-over by the State Government or total decentralised autonomy. All these of course reflected one salient fact. It is that the country is psychologically ready for reform of the local government system in a substantial manner. This willingness of the people for reform is of course a great help to any Commission charged with the responsibility of bringing a branch of government up-to-date. It is a psychological pre-condition and we are satisfied that the existence of it has been demonstrated to us in ample measure.

Territorial Conditions

283. One of the by-products of the Emergency that lasted from 1948 to 1960 was the opening up of the country to some extent, in the shape of new villages. People who had been living beyond the reaches of the government in a day-to-day sense were brought under the canopy of administration in the form of local government and other governmental services. People who were living in isolation and out of the precincts of law and order were brought for the first time into a social cohesion and were called upon to shoulder civic responsibilities through decentralised local units in pockets of areas of all sizes and populations without any great regard for minimum criteria.

284. Despite the creation of new villages and the setting up of Local Councils, an overwhelming part of the country still remains unserviced by any form of local government.

285. Areas outside the jurisdiction of local government fall within the direct administrative control of the respective State Governments barring the States of Malacca and Penang. In these two States every part of the State is covered by a local government. In the other States large tracts of land are outside local government areas. People

living outside local governm... areas by and large do not have the benefits of local government services. Nor is the State Government in a position to render any of the local services by reason of its distance and of the administrative difficulties involved.

286. Is this a satisfactory state of affairs? Is it necessary that every part of the country must be served by a local government? The answers to these questions depend on the concept and the scope of services of a local authority.

287. Theoretically, there should be a local government in every part of the country. No other government would be better suited than a local government to render certain types of services to local people whether they live as a community or in isolation. Not all services can be economically or effectively rendered to people living in lonely and remote areas. But there are certain services which can be rendered to people living in such conditions. To keep such people out of the reaches of a local government simply because the State Government would not be in a position to render such services is not a convincing argument.

288. Furthermore, a town is no longer an entity that cannot be easily approached. Modern communications and transportations have brought the town closer to its surrounding areas. A town is a service centre for the people who live in the surrounding rural areas. It largely lives on the trade generated by the people in the hinterland. The economy of the town and that of its rural area are therefore closely interlinked. In these circumstances the people in a rural area are entitled to share, if not all, at least some of the services given to their fellow citizens in the nearby urban areas.

289. The advent of modern transport facilities has created the basis for the urban-rural partnership in local government. This should enable the rural people to participate to some extent in the urban way of life. This is well stated by A. Bours, Head of the Unit established some years ago by the Union of Netherlands Municipalities to deal with the problems of co-operation between local authorities on a regional basis. He says that "participation in an urban way of life, regardless of where one lives and regardless of the occupation one follows depends above all on the transport facilities for frequent movement of large numbers of people and goods between the settlements and on the possibilities of using it—in other words on the development of traffic and transport systems".[1]

290. In West Malaysia, great strides have been made in the field of transportation. More major and minor roads have been and are being built. Construction of these roads have opened up large areas, establishing easier contacts of isolated villages and kampongs with the nearby urban centres. This process of opening up the arteries of contact is likely to continue with the degree of pace and priority it has so far received in the various development plans.

291. The effect of all these facilities should bring the rural and urban areas closer together. With this possibility, we are satisfied that the territorial or geographical conditions of the country has provided the ecological condition to extend the fabric of local government throughout the country with suitable provisions for graduated rights and duties commensurate with the measure of services.

1 "Amalgamation and Co-operation among Local Authorities in the Netherlands" by A. Bours. Studies in Comparative Local Government Vol. 2 No. 1 Summer 1968 p. 67.

Demographic Conditions

292. Another ecological factor in determining the question of reform of local government is the demographic pattern and its growth and movement within a country. Population is always growing at greater or lesser rate. Internal movement of the people is also being constantly stimulated by economic factors. This is a universal phenomenon and every country is caught in it to a greater or a lesser degree. Malaysia is no exception.

293. By international standards our rate of growth of population is of an alarming proportion. It is 3.5% per annum and by this performance the country qualifies as one of the peak producers of human beings in the world. It is the policy of the Government to match this population bulge with economic, social and cultural development as exemplified in the First Malaysia Plan and the Plans prior to that.

294. All these developments have stimulated economic activities chiefly, but not solely, in urban areas. These in turn have produced a quiet urban revolution in West Malaysia. Towns and cities have been expanding. More houses have been and are being built in most towns. Industries have grown in a moderate scale in several urban centres throughout the country. Government itself has become an ever growing employer. With intermittent lapses there has been increasing quantum of money placed in the pockets of the people, both in the urban and rural areas. These in turn have augmented the purchasing power of the people resulting in greater volume of internal trade. Cumulatively, and in parts, all these activities could not but encourage the internal movement of the people in search of opportunities, either new or better.

295. In other words, in urban sociologist's terms the "push" and the "pull' factors have actively and concurrently been in force as in many other countries both developed and developing. Less attractive rural areas were "pushing" the people outside and the modern urban centres were "pulling" the people toward themselves, giving the facade of real or notional opportunities.

296. Though this in-migration or internal movement of the people from rural to urban areas is not adverse in itself, it is nevertheless likely to create grave problems if such in-migration promotes urbanisation without concomitant and commensurate economic growth. To put it differently, economic growth must precede in-migration, not follow the latter.

297. The present situation has been well stated by the Ministry of Local Government and Housing, Malaysia, in one of its Papers. The Paper says that "apparently in West Malaysia the rate of urbanisation in the inter-censal years has been strikingly rapid. Unfortunately, however, the rate of urbanisation in this country far exceeds that of economic growth with the result that most of our urban centres are now faced with the problems of acute unemployment, under-employment, over crowding and housing shortage."[1]

298. These in-migrations have direct bearing on the demographic content and curve in local authority areas. As more rural people move into the urban areas the character

[1] Paper presented on "Urban Growth, West Malaysia" by the Ministry of Local Government and Housing, Malaysia, at the Pacific Conference on Urban Growth, Honolulu, May 1967, p. 4.

of the urban population must necessarily change. This in turn will reflect the social and cultural attitudes of the people, and local government perforce has to take note of these in providing its services.

299. Seen in this light the impact of urbanisation on local government can be fully comprehended. It would, therefore, not be irrelevant at this stage to take a close look at the degree of urbanisation. Although West Malaysia is essentially agricultural in character, it nevertheless manifests a high degree of urbanisation. Adopting the criterion that 2,000 people constitute the character of urbanisation, about 2,441,671 people or 39% of the total population in 1957 lived in urban centres. A rapid and a further breakthrough in urbanisation has taken place since the census year of 1957.

300. It is to be noted that 76% of the total urban population in 1957 resided in Penang, Selangor, Perak and Johore. These four States also recorded the highest proportion of urban residents to total population. In these States are located 60 out of the 84 urban centres of West Malaysia. The following is the breakdown population of urban centres in West Malaysia:

Population	Urban Centres
5,000-10,000	46
10,000-20,000	17
20,000-40,000	10
40,000-80,000	8
Over 100,000	3
	84

301. During the inter-censal years 1947-1957 the urban population increased by 90.5% and the number of urban centres during the same period had also doubled. In 1965 the estimated number of urban centres was 101. Such a rapid urbanisation is attributable to the high rate of natural increase as well as the very intense in-migration from rural areas to the urban centres. The in-migration is due to two factors, i.e. political and socio-economic. The socio-economic reasons have been dealt with earlier. The political reason was caused by the Emergency that lasted from 1948-1960. During this period artificial acceleration of urbanisation was brought about which resulted in the creation of 70 new villages with a population of more than 2,000 persons per village and 15 with a population of over 5,000 persons per village.

302. It is the policy of the Government to have a balanced and planned development of urban and rural areas. In pursuance of this policy the Government has embarked upon very extensive land settlement schemes both for economic development and for providing employment by arresting unnecessary in-migration of people from rural to urban-areas.

303. It will be useful to have some idea as to what is to come by way of rural development. Rural development does not simply mean opening up of land. It has so many inherent possibilities. One of them being the foundation for urbanisation.

Rural development brings in its train essential communal facilities such as roads, water supply, electricity, medical, educational, religious and other services. All these provide the basis for urbanised living. And in this sense what is happening by way of rural development is of great actual and potential significance to grass-root democracy through local government.

304. As there has been a movement of people from rural to urban areas, there has also been movement of people from urban and less developed rural areas to properly developed rural areas. This has come about by the various land settlement schemes of the Federal Land Development Authority. For instance, 9,500 families were so settled by the end of 1965. During the First Malaysia Plan period 1966-1970, a total of 21,250 families are expected to be settled on various land schemes throughout the country. Taking about 6 persons to a family, this would mean the settlement of 127,500 persons. With a further 3,700 families to be settled soon after 1970, a total of 34,450 families or an estimated population of 207,000 people would have been settled during 1960-1971. The Federal Land Development Authority's target is to establish 12 such schemes each year. Each scheme is to be approximately 4,200-5,000 acres in size and would accommodate 400 families or an estimated population of 2,500 persons. Taking on the earlier criterion that 2,000 persons living as a community and coupled with certain social amenities may create an urban centre, it would provide a basis for local government. It is further expected that the Federal Land Development Authority would complete work on 33,000 acres of land opened before 1966, develop an additional 32,000 acres on existing schemes and initiate new schemes covering 109,000 acres. All these indicate exciting socio-economic and cultural possibilities of great import paving the way for a continuous extension of urbanisation.

305. How are these developments relevant to local government? Any mobilisation of human and material resources would result in social cohesion which in turn would justify the basis for political management. All these factors are inter-related and sooner or later they will have to be harnessed and harmonised for the social good which is, of course, the ultimate end. We are therefore satisfied that the movement of the people and their settlement in new areas would create territorial and demographic conditions favourable to the reform of local government on a wider basis than it is at present.

Socio-Cultural Conditions

306. Without straining truism to the extreme it may be said that a people often get a government they deserve. If they belong to a traditional society with authoritarian values as in tribal Africa or in many parts of Asia, then they will not miss democracy if it is not offered to them. In such a case, decentralised local authority may mean precious little or nothing to them. If their society has been based on authority-subordinate relationship they will easily submit to autocracy. On the other hand, in some Western European countries and in North America people have got used to democracy from grass-root level and they will not easily surrender to autocracy at any governmental level.

307. The socio-cultural attitude of a people very much depends on the over-all values that they have absorbed over a period of generations. Political democracy as cultivated

in Western Europe is comparatively a new concept for most Asian and African countries. Even in some countries of Europe and in South America it has not taken a firm root.

308. In West Malaysia, it was local government that first received the real taste of political democracy as recently as 1950, when the Local Authorities Elections Ordinance was passed. Prior to that, the socio-cultural setting of the country was practically devoid of political democracy. There was the typical colonial government which functioned on the time-honoured concept of the rule-of-law. This in turn created a tolerant atmosphere with a healthy respect for law and order. No doubt, this had created a strong layer of psychological foundation to absorb democracy with ease when it was initiated.

309. West Malaysia has three socio-cultural streams namely Malay, Chinese and Indian, flowing side by side, intermingling at the fringes but essentially remaining apart. Admixed with these streams and adopted by them in varying degrees is the over-lapping broad European culture which has gained international acceptance. Though all the three communities are ancient and have their traditional values, in so far as political democracy is concerned, they have settled for a consensus in accepting democracy as the pattern of political management. Their differences have not stood against the introduction of democracy as a political process.

310. Though during our enquiry we heard views in favour of doing away with the elective representation in local authorities, we are satisfied that these were made not for any love for authority or because of any lack of faith in democracy. They were generally made with a great desire for efficiency. To some of them, local democracy was an expensive luxury. They showed more concern in the efficiency of services and not in the extravagance of democracy. This attitude did not reflect any socio-cultural phenomenon but rather a secular orientation.

311. We were impressed by the fact that most rural people felt democracy had come to stay and that they would not bargain for anything less. This may be due to the fact that they now do see the value of their rights to discuss, deliberate and decide on matters of local interest. So far as socio-cultural conditions are concerned, the country's ecological situation for local reform has never been better. It is indeed even more conducive to further absorption and consolidation of the values of democracy in this field as in other fields of political management.

Enlargement of Scale of interests

312. The national boundary of a country seldom changes. So is the boundary of a State or province within a country. But this cannot be said of the boundary of a local authority. A healthy local authority is always in a state of flux. It never ceases to grow or change. As it grows it expands in area and increases in population.

313. This aspect of growth always causes problems, minor or major. It never fails to demand increased services. Public utilities, particularly, will have to be augmented. As a town grows it resolves itself to zonal restrictions such as commercial and residential areas. People tend to live away from the central and commercial areas. Dormitary and satellite townships abound. These in turn create other problems, particularly one of commutation between the places of work and abode.

314. Improved communication and increased social mobility have generally enlarged the individual's scale of life. His life in a modern town is no longer confined to a small area. He may live in one place, work in another place some miles away and play in a place not too proximate. Modern facilities enable him to have interests over a wide area. He thereby develops common interests with people living in different areas in a large town and to that extent his identity of interests with the community in the area where he resides gets weakened or even disappears. This is because the modern society has become very functionalised and functionally institutionalised on a wider scale. Though this trend is at present nascent in West Malaysia it is a growing one. As our towns increase in number and size, they are bound to reduce community of interests and increase common or functional interests.

315. The individual's scale of interests depends very much on technical development of services. If a hospital is built in a town it is not merely intended to serve the people of that town. It is intended to serve also the people in the area surrounding the town and often the entire district where the town is situate. Likewise, are the water and electricity services. Penang and Malacca provide instances of such services. The Municipality of George Town supplies water and electricity to the surrounding areas outside the Municipal boundary. The Municipality of Malacca provides water and fire services to people living outside the Municipal boundary. Such extensions of services not merely provides enlargement of the scale of interests but also create problems to local authorities in finance, administration and related matters.

316. Enlargement of scale of interests may result in a two way traffic. The expansion of a town may justify the enlargement of interests from within a town stretching outward. On the other hand, it may result in people living outside a local authority reaching inward into the local authority for services. In either of these cases it should become a matter of interest for a State Government to intercede and see how useful it can be in solving the problem in a practical way by giving financial or administrative assistance.

317. Time and again we heard views that many towns are unable to grow due to lack of space and their enlarged scale of interests had not been given any regard at all by the respective State Governments. On the other hand, it has been complained that towns are asked by the State Governments to provide services outside the town limits without adequate returns.

318. The current situation throughout the country reflects a growing enlargement of scale of interests. This no doubt justifies a nation-wide reform on a scale which can remove unnecessary anomalies and conflicts between the State and local authorities by restructuring the local authorities on a wider scale.

CHAPTER V

CRITERIA GOVERNING SIZE AND POPULATION OF LOCAL AUTHORITY UNITS

COMPATIBILITIES BETWEEN OBJECTIVES AND ECOLOGICAL CONDITIONS

319. In West Malaysia, we have various types of local authorities, e.g. Municipality, Town Council, Town Board, Rural District Council and Local Council. These vary in size and population. No guidelines or broad criteria seem to have been followed in setting up the local authority units. The anomaly is particularly glaring in the case of Local Councils.

320. Are there factors that govern the size and population of local authorities? If so what are they? A clear comprehension of the factors is not merely desirable but essential for the rational and scientific development of local government. Any haphazard and sporadic development will not bring about healthy local government. A convulsive course of development might appear to be useful for a while but will not stand the test of time. This is what has happened in West Malaysia. Some of the wide-spread and newer patterns of the local authorities have been hurriedly introduced with mainly two objectives of decentralisation: democracy and autonomy. As other co-related objectives compatible to the ecological conditions of the country were lacking, many of our local authorities have floundered as the country progressed in swift tempo.

321. In the previous two Chapters we dealt with two questions namely, the objectives of decentralisation and the ecological conditions for reform of local government. Sometimes the objectives may be laudable but they may not be practicable to the extent desired or may not merit the priority preferred. Practicability and preferability are largely influenced by environmental or ecological conditions. It is no use having lofty objectives that cannot be translated from the pages of the blue print to effective implementation. Objectives therefore, should be compatible as far as possible with existing ecological conditions with room for improvement as dictated by changes in such conditions.

322. Let us now consider the compatibilities between the objectives and the ecological conditions and between the objectives themselves. It is necessary to have a balanced and a proportionate view of these inter-acting and mutually influencing forces. It may be useful to recapitulate the five objectives, namely: National Unity, Democracy, Freedom, Efficiency of the Administration, Social and Economic Development. We have also considered five ecological conditions as being important for local government reform. They are: Psychological Conditions, Territorial Conditions, Demographic Conditions, Socio-Cultural Conditions and Enlargement of Scale of Interests. Let us see how far they are or are not compatible *inter se*.

323. The objective of national unity attracts priority where the population is multi-racial as in our country. Here various races live together in an urban area. There are parts of urban areas where one particular race may live in a cluster. But on the

whole throughout the country the Chinese community constitutes a great majority in urban areas. On the other hand, the Malay community is generally preponderent in the rural areas and the Indian community is to be found partly in urban and partly in rural areas. There are obvious gaps between the social, economic and cultural opportunities and standards between the urban and the rural areas. These gaps should be bridged in the interests of national cohesion or unity. Otherwise they can turn out to be breeding grounds of tensions, either local or national. One of the instruments to cement this cohesion is the local authority. In order to make the local authority effective for this purpose it must be sufficiently large to embrace within its fold the urban and the rural areas and ploy and deploy the resources of a larger area for the common interests of the people in the area.

324. While the objective of national unity underscores the need for a larger local authority, such a move may abridge the scope of democracy that normally flows from citizen participation. It is common knowledge that in a smaller area the citizens will have greater representation and closer participation than in a larger area. There may be other ecological conditions that may not be conducive, for instance, the territorial condition of the area may not be suitable for a larger local authority. Communication and transportation may be lacking for people to travel long distances, either with ease or economy. A large local authority may not have a socially cohesive community and may be lacking agreeable socio-cultural conditions. There may not be that degree of enlargement of scale of interests as well.

325. The desirability of social and economic development as an objective requires a local authority of wider area, both urban and rural so that physical plans can be comprehensively conceived and effectively implemented. It will also need efficiency in administration. A skeletal and rudimentary administration will not be able to handle the functions related to social and economic development. In the newly independent countries it is being increasingly recognised that mere political freedom and democracy will not provide the basis for national unity. The advantages and opportunities of social and economic development generated by and at all levels of the government will be a more effective factor in cementing national unity. If in its process democracy has to be curtailed in the interest of expediency, then it is argued, it should be done. The rationale of this argument is that time is not on the side of democracy if democracy itself is to be saved from inefficiency. It is better to chew only that extent of democracy that can be digested and assimilated at the ground level. Too heavy a dose of democracy, not coupled with efficiency, will only be suicidal to itself. This line of reasoning supports the growth of democracy in stages especially at the ground level.

FACTORS GOVERNING CRITERIA

326. We have so far considered under this part, the various objectives of decentralisation and the probable conflicts and clashes between them and in relation to the ecological conditions. From the above consideration one indisputable conclusion emerges. It is that no one objective of decentralisation is exclusively important. All the objectives are inter-related and the priority and importance of each may vary from country to country and as influenced by its own ecological conditions.

327. In weighing the objectives of decentralisation in the light of ecological condition what factors should serve as criteria to determine the territorial size and population of local government units? Dr A. F. Leemans' Report for the 1967 Stockholm Conference on "Amalgamation or Co-operation" recognises the following criteria as the factors to determine the size and boundaries of local government units:

(i) The Social Community.

(ii) Participation—

  (*a*) political participation;
  (*b*) participation in developmental activities.

(iii) Catchment Area.

(iv) Financial and Personnel Capacity—

  (*a*) financial capacity;
  (*b*) personnel capacity.

The above factors need scrutiny in depth to see how far they are important or relevant in determining the size and population of local authority units in our country.

The Social Community

328. The social community concept has been frequently adopted as a factor in determining the size of a local authority unit. Where people lived in a community, a local self-government was conveniently organised. This was the usual phenomenon in Europe. For instance, compact social communities lived in walled cities or towns of Europe. Such well defined living enabled them to have their local self-governments with comparative ease. Likewise in the rural areas, the village or the church provided the basis for social community. Here again, local government was set up for such easily identifiable social communities. Even in Asian and African countries the pattern was not dissimilar. In India, the well known panchayats were the expression of local government at village and town levels. Even to this day in some countries of Europe, Asia and Africa, this concept of local government based on the foundation of social community is not altogether an uncommon feature.

329. Usually a social community comes into being from the net-work of inter-related activities of a people living in a group either in a town or a village. These inter-related activities take various forms. They may be of religious, cultural, recreational, commercial or occupational (e.g. farming or fishing) character. Out of these inter-related and somewhat inter-dependent living emerges a social community characterised by two elements. One is the intangible bond based on common values. The other is the tangible tie of common interests. On this foundation of social community, local government has been automatically organised and even to this day is being organised to some extent in several countries. Protagonists of the social community theory strongly advocate that a local government organised on this basis would work well with minimal internal conflicts. According to them there is already a basic concord with common values and common interests and any local government nurtured on this concord would have a healthy growth. But this view pays no regard to the other objectives of decentralisation such as national unity, efficiency, social and economic development. A social community may be too small and limited to a very circumscribed area. Its resources might be too paltry to provide any service in a worthwhile sense. It may be too poor a social community unable to supply more than a meagre revenue.

330. The Town Council of Bachok in Kelantan is a case in point. It is a small fishing village. Yet it was declared as a Town Council in 1958. It elects nine councillors. Its area is 0.25 square miles. It has a total population of 2,000 of whom 616 were voters in 1965. It has 286 houses. Its actual revenue was $8,713 in 1965. Its expenditure was $28,000 in that year. It could only survive by the contribution-in-aid of rates in the sum of $12,802 from the Federal and State Governments. Twenty to thirty houses paid only 50 cents rate each per year. The average assessment levied on a house was $8 per annum. The average income of the fishermen was about 80 cents per head per day. One of the members of Bachok Town Council told the Commission that "as the majority of the people are fishermen, they cannot pay even 50 cents per annum as assessment". Yet in name the Town Council of Bachok was financially autonomous. It is no doubt a social community in the full sense of the word. But is this adequate for a meaningful and worthwhile local authority? The answer clearly must be in the negative.

331. On the basis of a well defined social community with common values and common interests a local government may be more than justified for the Bachok community. But in practice and in effect it borders on absurdity. It certainly calls for something different. It has been suggested to us that amalgamation of the existing local authorities and the creation of larger authorities would provide a suitable formula for healthy local government. Amalgamation has been advocated on the basis of existing administrative districts so as to include both the rural and urban areas under the canopy of one local authority. Is this desirable? Would this be consonant with the concept of social community? Would it not trigger conflicts between rural and urban values and interests? These were some of the questions which we have to answer.

332. In Province Wellesley the pattern of local government on the basis of administrative districts has already been in operation for several decades. There are three Councils known as North, Central and South District Councils. Each of the Councils covers the entire administrative district. In this sense, unlike in most other States, every inch of the district is covered by local government. Every registered voter in a district is entitled to participate in local government elections. This is a clear case of amalgamation between the urban and rural areas. It has provided a coalescence of urban and rural interests. Though it has been functioning for some time, yet the system was not free from severe criticisms. In Butterworth which is a fast expanding town with promising industrial and trading potentials, the Commission was told by sophisticated witnesses that the District Council set-up was not suitable for the town. The urban problems, interests and values of the town generated by the modern infra-structure and by the growth of industrial estate were represented to us as being quite different from those of the rural areas. It was further said that the town should be allowed to use its own resources for its own benefit.

333. Amalgamation of rural and urban areas to provide one local government unit has been attacked on these familiar grounds in other countries as well. It has been argued that the urban community is usually sophisticated or modern and the rural community is unsophisticated or traditional. Not merely common values and common interests differ between them but often they actively get into conflict. It is therefore not desirable to amalgamate the two, merely because it is likely to promote administrative efficiency or provide a more workable basis for social and economic development. This line of argument is still prevalent and is not uncommon in most countries. But it is not correct

to say that in every country the urban people are modern and the rural people traditional. This is certainly not the case in highly industrialised countries where the ratio of the agricultural working population is very small compared with those engaged in the fields of services and industry. In such countries, the gap between modernity and traditionalism hardly exists. Such a gap is no doubt pronounced and wide in developing countries. Even so, whether it will necessarily cause serious conflicts between urban and rural interests if a single local government unit were to serve the two interests, is not always borne out by facts.

334. There is also another element to be considered. It is the argument that people generally desire to identify themselves with a community. This arises from the emotional need to belong to a community and for local allegiance. The element of a sense of belonging and local allegiance is an intangible quality. In depth it may vary from person to person and from place to place. Allied to these feelings is the inherent tendency for local chauvinism. In a homogeneous society local allegiance and chauvinism may not be too ethnocentric. But in a multi-racial society as in Malaysia, local government unit deriving its support from one socio-ethnic community can easily breed narrow local allegiance not solely based on a locality but rather based on ethnocentric chauvinism. This will be even more pronounced where the community is rural and traditional in orientation, with isolated habitats.

335. In West Malaysia, the social community is multi-racial in character in urban areas and generally uni-racial in rural areas. Even though it is multi-racial in urban areas it is predominantly manned by one ethnic group throughout the country. And so is the case in rural areas. There are villages where one or the other ethnic group predominates. In such a population structure it is so easy for a local government unit to fall under the influence and control of one or the other ethnic group, depending on where the unit is situated.

336. Despite strong social cohesiveness and local allegiance or even chauvinism, amalgamation of local government units have taken place in a number of countries without much ado. Even if there were misgivings, the local inhabitants in those countries did not strongly stand in the way of amalgamation. This was also the case in the States of Penang and Malacca.

337. For many years, the philosophy of local government has been based on the need of creating one co-terminous with the entity of a social community. Government officers, scholars and generally people connected with local government were influenced by this philosophy of having a local government unit for a cohesive social community. This led to the separate creation of water-tight local government units for communities in urban and rural areas. In Europe, this was even considered desirable. But during the recent decade there has been a significant change in attitude in that Continent in regard to the philosophy of local government. The old idea of forming local government unit on the basis of cohesive social community is no longer tenable. Again, the concept that separate local government units have to be established for rural and urban areas has also been under-going radical change.

338. In Europe, not only the social community concept as the basis for setting up local government units has lost its original force but also the concern for rural and urban values and generally the rural-urban dichotomy does not attract the same degree of influence in determining the size and boundary of a local government unit.

339. The trend in Europe now appears to be one of amalgamation of existing small units of local government into larger entities. This is considered necessary from various angles:

(i) modern technology requires physical planning covering a wider region. Fragmented physical planning will not promote efficiency and co-ordination.

(ii) urban areas are service-centres to their surrounding rural areas. So, the economy of towns very much depends on the surrounding rural areas. Therefore, they are mutually inter-dependent and hence must share the benefits of their common resources.

(iii) a rural-urban combination will reduce or remove the economic, cultural and social imbalance between the two.

(iv) a larger unit will generate increased revenue from greater resources. This in turn will strengthen the financial autonomy of the unit.

(v) a larger unit will bring about administrative efficiency.

(vi) with greater resources and efficient administration, more and varied services could be rendered to the inhabitants.

340. The above are some of the reasons for amalgamation. Sweden has provided an illuminating example in this direction. She has gone through a quiet revolution in the field of local government during the last two decades. Before 1952 there were 2,281 rural communities (local authorities) in that country. These were reduced to 816 by process of amalgamation. This was carried out in pursuance to a Parliamentary decision in 1946 that every rural community should have about 3,000 inhabitants. The 1952 redivision of communities was to amalgamate rural communities so as to establish new units predominantly rural in character. This redivision, wherever possible, avoided the amalgamation of rural and urban communities.

341. By 1962 this redivision of rural communities was found to be not satisfactory. A new guideline for amalgamation was adopted by the Swedish Parliament. This provided for urban centres to be merged with the surrounding rural areas under their influence. That is to say, communities have been and are being set up to coincide with the commercial and industrial regions that have been fostered by emigration to densely populated areas or developed by technical and financial growth. Thus, communities have been grouped round central communities and comprise an area whose commerce, finances and communication systems coincide. Though no minimum population has been determined for every community, for the present it has been estimated that no community should have a population less than 8,000 by 1975. Since 1962 there have been more than 100 mergers of communities. At present the number of communities in Sweden is 900 and it is expected that by 1971 it will be decreased to between 600 and 700 communities. The Swedish Parliament has decided that as an ultimate objective the country shall be divided into 282 blocks of local government. It has also decided that in any event such division shall take place. For the present it is taking place on a voluntary basis. Compulsion is not used to amalgamate the existing units.

342. The trend of amalgamation is to be found also in Denmark. Under the Municipal Reform Act 1967, except for Copenhagen, all cities and towns are made integral parts of their respective districts. One of the main aims of the Act has been to amalgamate small local units into more populous and financially viable municipalities. The country is broadly divided into 85 Urban Municipalities (Bykommuner) and 1,000 Rural Municipalities (Sognekommuner). In urban areas, municipal boundaries are being revised so as to combine two or more authorities into a single authority which would be continuous and inter-dependent in character. Likewise, sparsely populated rural municipalities are being amalgamated to form a rural municipality comprising a minimum population of between 5,000 and 6,000 inhabitants.

343. Nearer home, in Japan, by an Act passed in 1953, known as the Law for the Acceleration and Amalgamation of Towns and Villages, contiguous municipalities with less than 8,000 inhabitants each were encouraged to merge. As a result, the number of municipalities dropped from 9,895 in September, 1953, to 3,312 in April, 1968. In 1953 there were 7,640 village municipalities. These were reduced to 763 in 1967. The others were merged with the nearest town or city municipalities. The reason for the amalgamation of the small village municipalities was to make them financially viable to meet the costs of increasing services and to enable them to receive more benefits resulting from social and economic development, i.e. improved means of communication and the general standard of living. Japan at present is divided into the following municipalities: City (565), Town (1,984), Village (763). It seems to be the objective to merge the villages with the towns or cities. This trend has been going on since 1953. The effect of this is to have combined municipalities of urban and rural interests.

344. Even in England there is a radical new thinking about structural reforms of local government. The present pattern of local government in England (outside greater London) was largely established in 1888 and 1894 and its basic structure has remained unchanged since then. Briefly, local government in the cities and big towns are administered by all-purpose authorities. These are the county boroughs which form a single tier of local government. Outside these, local government is divided between administrative counties and the new county boroughs or urban districts, forming a two tier system or between the administrative counties, the rural districts and the parishes, forming a third-tier. There are at present 45 county councils, 78 county borough councils, 238 non-county boroughs, 462 urban districts, 412 rural districts and about 10,000 rural parishes in England of which about 7,000 have parish councils. In all there are 11,235 local authorities.

345. The present structure of local government in England reflects the settlement or the social community pattern of the 19th century. Then communities were living in compact areas. Most employment and activity were within a walking distance of a man's home. A high proportion of the people were engaged in agriculture. Now the social structure has radically changed. Both men and women are gainfully employed. There has been a revolutionary change in the structure of families. Even the education of children has been transferred from family level to community level. Social mobility has increased and society has become very functionalised. Men and women are no longer tied down to traditional avocations. Industrialisation has grown beyond the wildest imagination. Man now commutes long distances from his home to his place of work without a ruffle.

346. What is the effect of all these? The written evidence of the Ministry of Housing and Local Government of United Kingdom to the Royal Commission on Local Government in England sums it up as follows (para. 10, page 61):

> "The combined effect of all these changes has been profound. Towns and cities have grown larger. At the same time, because of increased mobility they provide services and employment for widening areas around them. In turn, city dwellers look to these areas for their recreation. The sharp distinction between urban and rural has diminished. In many parts of the country the pattern of settlement now consists of a combination of one or more cities or big towns surrounded by a number of lesser towns and villages set in rural areas; while tied together by an intricate and closely meshed system of relationships and communications and providing a wide range of employment and services. The more specialised and sophisticated services of these wide areas are characteristically to be found in the main urban core but their economic base is provided by the population of the area as a whole. It is these wide areas which are becoming the most important communities of the second half of the twentieth century and for which the expression 'city-regions' has been coined."

347. In place of the 11,000 local authorities in the country, the Ministry of Housing and Local Government has recommended to the Royal Commission on Local Government in England the setting up of 30 to 40 units of local government on city-region basis in many parts of the country. The creation of city-region is recommended for the following reasons:

> "Planning authorities need to be able to deal with their problems over wider areas on a city-region scale. There will still be special characteristics and needs distinguishing the various localities within them. But the inter-relationships of employment, housing, shopping, business, education, welfare services, recreational facilities and the complex land use and movement pressures they create are most effectively handled on a city-region basis.
>
> Major planning problems arise from urban growth, urban renewal and urban movement. A city-region with its broad-based economy, large local market and diversity of social institutions has a greater momentum for growth than less populous parts of the country. The necessity to renew the urban structure, to pull down or improve old houses that are below contemporary standards and to keep pace with changing standards arising from greater wealth, new technology or social requirements means that there is also a strong element of change in these areas.
>
> The continued processes of urban growth, change and renewal should properly be guided in the interests of the city-region as a whole and not just for the benefit of the urban or rural parts of it. They should not be determined by narrow and increasingly artificial local authority boundaries." [1]

348. The other view that is before the Royal Commission on Local Government in England is that of the Association of Municipal Corporations in England. This view recommends the isolation of those services which need a larger area for their planning or administration than would be suitable in the great majority of local government services and for this purpose considers essential the setting up of "provincial authorities". Under these provincial authorities, it recommends the establishment of a number of "local authorities" each of which will be the primary unit of local government of sufficient size and commanding sufficient resources to allow the proper development of services and to attract and retain the administrative, professional and technical officers (with supporting staff) needed for the performance of their functions. The "local

1 Written evidence of the Ministry of Housing and Local Government to the Royal Commission on Local Government in England, London H.M. Stationery Office, 1967, p. 62.

authorities" should be vested with the responsibility for planning and administering all those functions of local government which are not to be dealt with on a provincial basis. The democratic control of the functions of local government should be maintained and the Central Government should have powers to control matters of policy and such overall financial control as is inherent in the sovereignty of Parliament.

349. The above two views are being considered by the Royal Commission in England. By any yardsticks, both the views are very radical. In one case over 11,000 local authorities are recommended to be reduced to 30 to 40 city-region units, with perhaps certain number of semi-tiered units for specified local services. The other view recommends the creation of about 10 provincial authorities and probably about 100 local authorities thereunder. Both reflect the kind of unorthodox and very reformist thinking in England in the field of local government.

350. Even in the United States which is often irrationally jealous of its local democracy, there is already a growing thought for rationalising the local government structure. In that country there are the following types of local government units with their number as in 1962 indicated in brackets: Counties (3,045); Municipalities (17,997); Townships and Towns (17,144); Special Districts (18,323); School Districts (34,678). The total number of units in 1962 was 91,187. Ten years prior to that, i.e. 1952, the total number was 116,756. The present number is estimated to be 80,000. The main cause for the reduction was the 49% drop in the School Districts. In 1952 there were 67,355 School Districts which ten years later dropped to 34,678.

351. Though the local government system in the United States is unique in its complexity it is nonetheless useful to have a snapshot view of the multifarious structures there. Counties are a governmental division of the State established to administer State laws and to perform a limited number of functions as may be authorised by the State, such as road construction and maintenance, welfare, health, hospitals, law enforcement, judicial administration, parks, recreation and property assessment and taxation. In most States, counties are responsible for providing services to all county residents including those living in municipalities. However, where counties and municipalities have concurrent jurisdiction, as in law enforcement, counties almost always serve only the unincorporated areas. Municipalities are a general purpose incorporated unit operating under State law or Charter with authority to make and administer their own ordinances, levy and collect taxes and exercise police powers and to preserve the health and welfare of their residents within State imposed limits. Municipalities may be called cities, boroughs, villages or towns except in the New England region and in the State of New York and Wisconsin where townships are called towns. Townships are geographical subdivision of the country usually functioning in unincorporated areas. Functions performed by townships are limited, except in the northern seaboard States where they generally undertake most of the services provided by municipalities. Special Districts are incorporated units created to perform one or more special purposes that cannot be performed by a municipality or county because of financial or legal limitations. Examples include fire districts, street lighting districts, sewage districts, flood control districts and parish districts. School districts are special districts created to provide and administer public education below the university level although in a few areas school districts have been established to promote college education. One or more school

districts service all but a few isolated areas of the nation but they usually function independent of county or municipal governments even where they are co-terminous with such units. [1]

352. Over the years in the United States there have been efforts to reform the local government system by the process of annexation and consolidation.

353. *Annexation.* This has been the traditional method for adjusting local government boundaries and for expanding the areas for municipal services. By this process, unincorporated land have been annexed by incorporated local governments. The central cities of the country's large metropolitan areas attained their present size in this manner. This trend was to some extent arrested from 1890 to the end of World War II primarily because central cities had been encircled by newly incorporated suburban municipalities and in some States, rural and suburban dominated States legislatures had enacted unworkable annexation laws. Annexation is considered to be advantageous for the solution of problems of metropolitan areas because (1) it broadens the territorial base for the administration and financing of local government services; (2) it provides for area-wide performance of services without establishing an over-lapping government, and (3) its use permits the orderly development of vacant areas. Its disadvantages are stated to be: (1) it cannot be utilized effectively where the central city is surrounded by unincorporated areas; (2) approval for annexation is difficult in most States because residents of unincorporated areas' fear (*a*) high municipal taxes; (*b*) loss of identity and (*c*) legal restrictions on activities, and (3) its use may cause an increase in the number of local government units because of "defensive" incorporations by residents to prevent being swallowed by their large neighbours.

354. *Consolidation.* This process has not been a very successful phenomenon. Since 1960 approximately two dozen inter-municipal consolidations have been attempted with only partial success. It has, however, been effectively utilized in the case of school districts. The advantages of consolidation are: (1) It establishes a broad territorial and financial base necessary for efficient planning, administration and financing of local government services; (2) it reduces the number of local government units, thus facilitating understanding and popular control and (3) it permits more effective popular control of local government because area-wide problems can be decided by the affected voters or their representatives. Consolidation has not been popular because (1) wealthy municipalities do not wish to share their financial strength; (2) residents of small municipalities fear loss of strength; (3) local officials fear loss of sinecures and political influence; (4) parochially dominant pressure groups fear loss of their political strength, and (5) residential bedroom communities fear reduction of property values by zoning changes that permit extension of high density apartments, commercial and industrial development.

355. *City-county Consolidation.* This happens when a city and its adjoining county merge functionally and territorially. This has happened in a rather limited way. Its advantages are more or less similar to those obtaining in respect of annexation and consolidation, since all these tend to centralise the benefits.

[1] Amalgamation or Corporation in the United States of America. Paper presented by the National League of Cities in co-operation with International City Managers Association, National Association of Counties and United States Conference of Mayors at the Stockholm Conference, 1967.

356. Though these three methods have been resorted to with varying degrees of effectiveness, no large scale reform has taken place in the United States. The recent Report by the Committee for Economic Development on "Modernising Local Government to Serve a Balanced Federation" recommends that the number of local governments in the United States, now standing at 80,000 should be reduced by at least 80%. In other words, it calls for the reduction of local government units throughout the country to about 16,000. It gives the following reason for this drastic recommendation:

> "Reasonable minimum standards of size would disqualify most present units for continued existence, since average population for all local government is less than 2,500. Failure to arrest this situation, especially in those States where it is most acute will further cloud the future of local self-government. Local units must be large enough to function effectively if part of our local affairs is not to be centralised at higher levels."

357. To provide a comparative picture we have focussed on the contemporary thoughts and reformist acts of five countries, namely Sweden, Denmark, Japan, the United Kingdom and the United States. These by no means are the only countries where thoughts and acts of reform are articulate and active. Many other countries are just as much actively interested in these directions. To cite a few, the experience of France, Germany, Belgium and Netherlands would not be irrelevant. In all these countries emphasis is being laid on the growing community of interests between the town and its surrounding rural areas. From time to time they have been considering various proposals for local government reform. The recent proposals largely touch upon the need for joint local government arrangement for urban centres and their surrounding rural areas. Some of the proposals call for amalgamation of rural and urban local authorities. Others advocate some form of federation of local authorities whilst leaving the existing ones intact. West Germany has successfully introduced machinery for co-operation between existing local authorities as distinct from amalgamation.

358. It will be noted that we have only focused attention on the experiences of more advanced and sophisticated countries. Do their experiences have any bearing on developing countries? Undoubtedly the experiences of other countries, whether developed or not, will throw some light on our own problems of local government. A local government system is not based on any water-tight doctrine or theory. It is not an unrelated government. It has to work in harmony with the State and the Federal Government. Necessarily therefore, its form and substance will be largely conditioned by the concepts governing the central government and the prevailing circumstances of a country. No pattern of a local government can be transplanted lock, stock and barrel from one country into another. This is so whether the adaptive countries are advanced or less advanced. But the experiences of one country may be useful guidelines to another. In this sense the experiences of advanced countries are not altogether irrelevant or unimportant. Similarly, the experiences of less developed countries may also be useful as a study of contemporary experiences of countries facing similar stages of growth. Given certain common factors, this study will be of great value.

359. It is clear that developed countries prefer amalgamation of local authorities in order to promote social and economic development, efficient administration and financial viability. In these countries the objective of national unity may not be all that important. They may even be inclined to dilute the objective of democracy in preference to social and economic development. With a settled national society and a democratic national

base the priorities of objectives of decentralisation in a developed country show signs of shifts in emphasis from time to time. For instance, during the Napoleonic era in France, efficiency in administration received the highest priority. The next in the order of priority was national unity whereas democracy was of minor significance. In the Netherlands, democracy, autonomy and efficiency were all given more or less equal importance during the 19th century. Social and economic development, however, appeared to be next in the order of priority followed by the objective of national unity. At the present time, in Germany, Netherlands, Sweden and other advanced countries, higher priority is being given to social and economic development followed more or less by the objectives of efficiency and democracy. Autonomy followed next with national unity receiving very small consideration. In the United States, in or about 1900, democracy was given the highest priority. It was followed by autonomy. Efficiency figured third in the order of objectives. Social and economic development and national unity received very small consideration.

360. In several new states in the wake of Independence, national unity as an objective was given the highest priority followed by the objective of efficiency. Democracy and autonomy would appear to have been treated at par. Social and economic development was given the least consideration. But in the new states that are relatively well established, the shifts in priorities appear to have changed. In these countries, efficiency of service seems to be receiving top priority followed closely by economic and social development. National unity and democracy are treated at par whereas autonomy is given the least consideration.

361. From the above analysis, it is clear that the objectives of local government are mainly determined on the basis of utilitarian philosophy. And these vary from country to country though one can see a broad international pattern of growth.

362. In the light of the above, social community itself as a factor may not exclusively determine the size of a local government. If social community alone were to determine the size, then the current trend towards amalgamation would not have taken place in advanced countries. We have seen the reasons for such trends in the advanced countries. But in a country like Malaysia, there is a strong case for amalgamation to achieve the objectives of national unity and social and economic development. National unity demands the diminution, if not the elimination, of centrifugal or fissiparous tendencies based on ethnic chauvinism. No governmental structure should serve as an instrument to accentuate such divisive forces. The other objective of social and economic development calls for sectoral and physical planning, the effectiveness of which can only be introduced and sustained on a wider territorial basis and increased human resources.

363. The local government system hitherto nourished on social community concept has outlived its usefulness. The political, social and economic context of our country now demands for something more rational, more purposeful and more effective form of local government even if it has to transcend the frontiers of social communities. Belgium has coined a phraseology for this expanded idea. It says that federation of local authorities or communities should coincide with "units of collective life" or "zones of homogeneous population". This lends weight to the idea that in modern times the concept of social community or community of interests is not in itself a suitable yard-stick to determine the area of new local government units.

Participation

364. We have discussed social community as a factor that determines the size and population of a local government unit. The next factor is participation. Participation may be said to have two limbs: (*a*) political participation, and (*b*) participation in developmental activities.

365. *Political Participation.* What is the meaning of political participation? We have considered democracy as one of the objectives of decentralised local government. It is common knowledge that democracy can only be exercised by political participation. Democracy is the end, political participation is a means to that end. To what extent therefore should there be political participation? Should it be a direct participation as in Switzerland at the level of its communities or at the level of its parish meetings as in England, or at the level of town meetings as in some states of the U.S.A.? Or should it be indirect through the election of representatives? If the latter, how big should be the electorate and how large should be an electoral ward? These are some of the questions that logically arise. Answers to these questions would help to determine the desirable or ideal size and population of a local government unit.

366. Before we go into these let us consider the question of political participation itself. No modern society can exist without politics. Politics is a tool for social management. It may be democratic or authoritarian in character. In an authoritarian political system the question of participation does not arise. Here everything will be by decree or directives. Participation becomes a factor only in a democratic society. Indeed, without participation there can be no real democracy.

367. Participation, in the final analysis, really means participation in the process of decision-making. The decision-making process may be direct or indirect. In a direct decision-making process all the people in a locality take part. As we have postulated earlier, this is being done in a limited way in the communities of Switzerland, parish meetings of England and in certain town meetings of the U.S.A. It is not convenient or even desirable to have this type of decision-making in modern societies which have grown large in size and have become complicated in structure. It might have been relatively simpler in fragmented and uncomplicated rural societies of the past.

368. It is not, however, correct to say that there is no direct decision-making by the citizens at large on basic rights. During the last one hundred years democracy has been spreading itself by placing franchise in the hands of citizens. In exercising franchise, citizens at large make their political decision. They elect the representatives of their choice. This is the direct decision of the citizens. The elected representatives constitute the parliament and legislatures of the central and state governments and the councils of local government. In these bodies the elected representatives decide on behalf of their electorate. Does this give adequate participation to the citizens in an area? This depends naturally on the size of the area. For instance, let us take one of our Local Councils in a small village where there may be 9 councillors to about 300 voters. Roughly this means one councillor to about 33 voters. Here the councillor-voter relationship is undoubtedly close. But how about a town of 50,000 citizens? Here, the ratio of participation will naturally be wide. There will be few councillors to more voters. Everywhere towns are growing in their size and population. There is a continuous influx of population into the towns. This is a worldwide phenomenon, not just peculiar to us. In view of this, in some countries it is felt that democracy no longer provides adequate

citizen-participation. The fault really is not that of democracy. When a city grows, the population grows. And when a population grows, the degree of citizen-participation gets smaller. This is an inevitable process. Unless a suitable substitute is found, this trend cannot be arrested.

369. Again, the other objectives of decentralisation such as efficiency, social and economic development call for larger local government units. If these are set in train, they must result in abridgement of citizen-participation.

370. Citizen-participation can be channelised in one of two ways viz: (*a*) Territorial basis and (*b*) Functional basis. Participation through territorial basis is by election of representatives to a local authority. Here every qualified citizen in a defined area will take part in the election and choose his representative. This is a political participation. Candidates may stand on political platforms. A citizen may vote for the candidate of one or the other political party. The elected representatives will carry out the functions allocated to the local authority. For a citizen, this is true participation through a local government.

371. If a local government area is large, participation may be provided on sub-territorial basis. That is to say, if a local authority were created co-terminous with a district, then identifiable towns and villages within the district may be given decentralised representation limited to each one of them. This may be on elective or nominative basis. By this process, participation of local citizens will be ensured. In many countries, under a major municipality, sub-municipal councils or wards are created to provide participation on a decentralised basis. This will no doubt be one of the answers to the argument against setting up large local government units. Otherwise, a large local government unit will become too impersonal and a local citizen may not identify it as being close to him.

372. The other form of participation is on a functional basis. In the United States, we have noted the existence of special districts and school districts. There are local government units confined to particular services like fire, street-lighting, schools, etc. In Europe too, there is a strong growing trend in this direction. Public or semi-public bodies are established to provide special services and in which representation is granted to functional groups from a local area. This of course is the result of functionalisation of society coupled with the expansion of the network of voluntary bodies. Such bodies may be connected with particular fields of activity such as social welfare, arts, sports and the like. The functional bodies may be varied in nature. They may be just committees under a local authority, in which case, their role is generally advisory. The Traffic Advisory Committee is an example of this kind in this country. Or, the functional body may be quite independent of a local authority and it may have been appointed under a separate statute in which case it will be a statutory body whether representative or non-representative in character.

373. In some countries, e.g. in Yugoslavia, functional bodies are an integral part of the local government system and operate under the final authority of the local authorities. These bodies manage schools, hospitals, municipal housing estates and the like. One of the reasons for the growing recognition of functional bodies to provide particular services is that they are free from political representation and pressure. Into these bodies, representatives of functional groups are usually appointed—not

elected. This ensures non-partisan management of services on a fair and impartial basis. On the other hand, local authorities which operate on territorial and all-purpose basis are generally politically elected and may therefore be subjected to political policies, partisanship and pressure.

374. It is said that though participation on functional basis has its merits, it has two important effects. Firstly, it may alter the character of representative participation in local government by granting representation to functional groups who may render services free of political bias and conflicts. Secondly, to the extent that it strengthens functionalisation of society, it is likely to weaken the territorially defined social community which provides the basis for participation in a local government.

375. In the light of the foregoing, it can be said that the political participation as a factor need not stand in the way of the creation of large local authorities. Representation on territorial, sub-territorial and even on functional basis should, wherever necessary and expedient, be resorted to in order to give adequate opportunities for participation.

376. *Participation in Developmental Activities.* This is a recent phenomenon in Africa, Asia and generally in developing countries elsewhere. We have noted that one of the objectives of decentralisation is social and economic development. If a local government is to serve as an instrument for social and economic development, how do we usher in its participation in such activities?

377. At present, in Malaysia, local government has little or no participation in the activities of the national economic development plans, such as the First Malaysia Plan. Rural Development Committees have been formed at district level but these function quite independently of local authorities. It is of course common knowledge that the local authorities as they exist now are too weak and fragmented to participate in such activities in a meaningful and workmanlike manner. Any effective participation in this field can only be introduced on a major reorganisation of the local government system.

378. It is being increasingly recognised especially in socialist and developing countries, that a local government can stimulate citizen participation in social and economic development. In socialist countries, development is the main, if not the sole, responsibility of the government. As such, a local government is brought into the scheme of general governmental responsibilities. In developing countries, the private sector is rather weak and the governments generally assume responsibility for the public sector and to a fair degree in the private sector as well. The governments in most developing countries are not in a position to rely on private sector to the extent it is relied upon in Western Europe and North America.

379. This, for instance, has been recognised by Pakistan when it introduced its basic democracy in 1959. The structure of local government in that country has been so determined as to secure full participation of the people in developmental activities. It is stated that since basic democracy was introduced there has been a new awakening of political consciousness among the people and have stimulated them to participate in socio-economic welfare programmes.

380. Even in India, the close link between local government and community development has been well recognised. There, the basic rural local government is the panchayat samithi which is in fact a transformation of the earlier community development block.

381. Active participation may be effectively brought about in small communities which may form part of a larger local government unit. This is especially workable in the creation of land settlement schemes for a group of people in a particular area. There is a strong argument in creating sub-local authority at a town or village level to serve as a catalyst for augmenting popular participation in socio-economic development in the area of such authority.

Catchment Area

382. Another major factor in determining the size and population of a local government unit is the optimal "catchment area" of services. It is to be recalled that one of the objectives of decentralised local government is efficiency of the administration to provide services. Services can be efficiently rendered if there is an adequate catchment area. (Catchment area here means an area which feeds a local authority to provide services).[1]

383. But optimal catchment area is not the same for all services. The desirable size may vary from service to service. Therefore, in the case of a multi-purpose local authority it will not be easy to determine the size of the area for all types of services unless the area is sufficiently large. Quite apart from the service, the area itself often changes in character due to urbanisation, mechanisation and other modern techniques. These changes no doubt have a bearing on the costs of services. In England, certain services have been regionalised because of the smallness of the catchment areas of local authorities. It was found that such services could be administered more effectively and efficiently on a regional basis. They include regional hospital boards, regional road construction boards and the like. Again, some other services have been brought under special authorities to meet specific needs, e.g. water boards, health boards, poor law unions, etc. Similar trend can also be seen to a lesser extent in the U.S.A. Other European countries, however, have not followed the British trend. They have on the other hand made use of the existing local government units to provide services and where found the catchment areas of such units were small they created new all-purpose or multi-purpose units of local government to provide the services. Nevertheless, many of the European countries could not but experience the inadequacy of the catchment area approach. Instead of creating enlarged special authorities to provide such services, they resorted to the technique of inter-local government co-operation to provide them. An outstanding example in this technique is West Germany.

384. As we have mentioned earlier, a catchment area approach may not be administratively efficient for all types of services. If a local authority is large then it will have a large catchment area to absorb all types of services. On the other hand, if it is a small unit of local government, services which require larger areas cannot be efficiently provided. If to obviate this, special and single-purpose authorities were created there would be too many such bodies without proper co-ordination between themselves. In England, multi-farious single-purpose boards and joint-boards have proliferated, thus resulting in little or no co-ordination and in the weakness of the existing local government units. In order to remedy this trend large multi-purpose units of local government, e.g. county council and urban district council were created to provide extended catchment areas.

1 Jackson, R.M. "The Machinery of Local Government" Macmillan & Co. Ltd, London, 1958, p. 301.

385. In providing services, co-ordination is an important requisite. Too many special-purpose bodies will not provide this co-ordination. There is also the question of unit cost of service. In determining the size and boundaries of local government unit this is an important factor. The size must be so conceived as to minimise the cost of services. For this, a unified approach to provide services on an area-wide basis is important. The Committee on Local Authorities of the Council of Europe refers to the co-ordination of administration as being an important consideration for local government reform.

386. The need for regional planning is also used as a strong argument in determining the optimal size of a local government unit. The Committee on Local Authorities of the Council of Europe calls regional planning "the greatest challenge for all administrative and territorial structures". The Committee considers that the local government should satisfactorily meet the requirements of regional planning.

387. It must be understood that a regional planning of a local government is different from the sectoral planning of a particular service. Regional planning is regarded to be multi-functional. It covers a region and a wide range of matters. Sectoral planning also covers an area but is confined to a single-purpose service. In reforming a local government what is important is the multi-purpose planning, such as social and economic planning, land-use planning, traffic planning and also a comprehensive planning.

388. The need for planning has stressed the importance for a larger local government unit. To carry out regional planning on the basis of existing smaller units would be administratively inconvenient and ineffective. In Britain, the need for land-use planning is argued as an important reason for larger local authorities. In several countries the town and its rural surroundings are considered as one composite minimal area for land-use planning. Certain types of planning need even larger areas and have to be prepared on a regional basis incorporating several local government areas.

Financial and Personnel Capacity

389. Both these elements are relevant in determining the size of a local government unit. They have a bearing on the objective of efficiency in administration.

390. *Financial Capacity*. Financial capacity is an important requisite for a healthy local government. The City Council of George Town, the Municipality of Ipoh and the Town Board of Petaling Jaya are some instances of financially strong local authorities which are able to stand on their feet. The sad commentary about most local authorities in the country is that they are all in financial doldrums. The reasons for this are stated in the chapter on Finance. It suffices here to state that there is a strong argument to have larger local government units with greater financial resources. This will create a healthy confidence in those who are called upon to manage local government.

391. Financial non-viability produces a number of ill effects. Firstly, a poor local authority is unable to provide efficient services. This creates frustration and lack of faith in the organisation. Citizens lose interest in the authority and become indifferent or apathetic. Administration itself gets affected and this gives cause for interference by the superior government. Because of the poverty of the authority its powers are taken away and the superior government assumes the responsibility. Ultimately, a

mood sets in even for the liquidation of the local authority. In France for instance, the majority of the communes (local authorities) are small and financially weak. This has given cause for the active interference by the central government in the affairs of the communes. It is also for this reason that the British Ministry of Local Government has recommended the reduction of over 11,000 local authorities to 30 to 40 city-region authorities. The Ministry's view is that a small number of large local authorities would be financially strong and less dependent on the central government.

392. *Personnel Capacity.* Personnel capacity depends on the financial capacity of a local authority. If a local authority is large and its resources are adequate, it can have a satisfactory personnel capacity.

393. During our enquiry, we observed that most Local Councils had just one clerk and three to six manual workers. Any local authority limited to this extent of personnel capacity cannot be held high in the esteem of the citizens. In a number of cases even the clerks were so poorly educated and had little or no knowledge of local government affairs. In order to have adequate personnel capacity with qualified officers such as a Health Officer, a Health Inspector, an Engineer or a Building Inspector and the like, a local authority must be sufficiently large. Otherwise local authorities would not have the wherewithal to recruit such officers. Local authorities are better not established with poor financial or personnel capacities in order to avoid making a mockery of them and causing frustration in the minds of the citizens.

394. We have so far been considering the area of a local authority. We did not actually set a yardstick of the area apart from using the epithet "large". In deciding the size of a local authority, the area has to be considered in the context of its population.

Population

395. We are of the view that an additional factor that should serve as a criterion to determine the territorial size of a local authority, is the extent of the population. Area and population are clearly inter-related. There may be a small area with a high density of population, as in a city like George Town. On the other hand, there may be a large area with a sparse population. Can we then have a small-sized local authority with a big population and a large-sized local authority with more or less similar population? We have considered that to achieve some of the objectives of decentralisation, urban and rural areas should be treated as one entity, quite regardless of the size and population. The determining factor here is a composite area from the development of which the people inhabiting it should derive mutual benefit.

396. A bare land without population is meaningless in social management. The factors of social community, participation, catchment area, financial and personnel capacity all have direct relevance to the population in an area. Should there be then a yardstick for population? Is there an ideal size in terms of size and population? More than 2,000 years ago this question was raised. Plato and Aristotle gave their views on the ideal size of a city. At that time in Greece, a city was an independent and largely autonomous State. Plato set the "fairest" standard for the regulation of a size of a city as "so long as the city can grow without abandoning its unity, up to that point

it may be allowed to grow, but not beyond it".[1] Clearly, Plato was impressed by the disadvantages of oversized cities. He therefore limited the number of citizens in an ideal City-State to 5,040. But this probably meant that a City-State had a total population of about 25,000 persons since there were warriors, slaves and workers to provide protection and services to the citizens or the guardian class. Aristotle, however, believed that a City-State became too large when politics could not be placed on immediate personal contact. The figure of 25,000 as a desirable population limit was advocated by three other writers. Both Leonardo da Vince and Ebenezer Howard said that an ideal city should have a population of 25,000.[2] Likewise Millspaugh chose the same number as the necessary and minimal population base to manage a meaningful local government with adequate staff and reasonable volume of services.[3] Nearly a hundred years ago, John Stuart Mill spoke clearly against very small villages having municipalities. He said "such small places have rarely a sufficient public to furnish a tolerable municipal council; if they contain any talent or knowledge applicable to public business, it is apt to be all concentrated in some one man, who thereby becomes dominator of the place. It is better that such places should be merged in a larger circumscription".[4]

397. Again, services required to be rendered efficiently in modern techniques require a certain minimal population base. For instance, the American Public Health Association advocates that each public health unit should contain at least 50,000 persons on the ground that an adequate health programme needs a minimum staff of qualified public health personnel.[5] Other instances may be cited to show the ideal size of a local government unit in terms of adequate service areas and populations. But of course they vary from service to service. It will therefore suffice to cite the findings of the British Local Government Boundary Commission, which states: "it is not possible by any process of arithmetic or logic to arrive at an optimum size of a local government as a whole or to any one function or group of functions. At best one can—to use an engineering term—arrive at a reasonable tolerance".[6]

Other Factors

398. We have used the yardsticks of Dr A. F. Leemans in considering the factors determining the size of a local government unit. In addition, we have considered population as a factor in determining the size of a local government unit. But these are by no means exhaustive though they touch upon the most salient ones. There are, however, other related factors that may be taken into consideration in determining the size and boundaries of units of local government. We furnish here below two sets of criteria as set by two countries in determining the size of a local government unit.

[1] Plato. The Republic, Book IV, p. 108. Quoted from Harold F. Alderfer's American Local Government and Administration (1956) p. 13.

[2] Lewis Mumford. The City History, Harcourt, Brace & World, 1961, p. 180.

[3] Arthur Millspaugh, Local Democracy and Crime Control, Brooklings Institution, 1936, p. 86.

[4] John Stuart Mill, Utilitarianism, Liberty and Representative Government, Everymans Library, Edition 1948, p. 352.

[5] Quoted in George S. Blair: American Local Government (1964) p. 54.

[6] Local Government Boundary Commission, Local Government Areas and Status of Local Authorities in England and Wales (Comd. 9831) H.M. Stationery Office 1956.

399. *United States of America.* The Advisory Commission on Inter-Governmental Relations has put forward six criteria in considering the modification of local government areas:

(i) local jurisdictions should be of such size that any service provided will be primarily beneficial and chargeable to the residents of the jurisdiction. Similarly, the social costs of failing to provide a service should not be to the detriment of other jurisdictions.

(ii) local governments should be of such size as to be able to secure economies of scale and thereby make it possible to minimise the unit cost of the services they provide.

(iii) local governments should have a geographical area that will make possible the most effective and efficient performance of a function.

(iv) local governments should have sufficient geographical and legal jurisdiction to cope adequately with the problems that their citizens expect them to solve. This requires effective planning, full public debate and decision-making and necessary resources.

(v) local governments should be of such size as to reduce disparities among taxing units and thus facilitate the raising of adequate revenues on an equitable basis.

(vi) local government should be accessible to and controllable by the people.

400. *United Kingdom.* The British Ministry of Housing and Local Government laid down several guiding principles for local government boundaries in the Local Government Commission Regulations, 1958. They are summarised as follows:

(i) the size and distribution of population and rateable value and boundaries of administration of the various local services should provide adequate resources and allow adequate scope for efficient and economical discharge over suitable areas of all the functions exercisable by the local authorities concerned.

(ii) the local government's area should not be so small that it cannot attract or afford to employ fully qualified officers.

(iii) regard should be given to size, shape and boundaries of the areas of local government in view of the travelling facilities within and between them and the way in which these may affect the administration of local services and the access of council members and the general public to their local administrative centres.

(iv) community of interests should be one of the prime considerations to be taken into account when contemplating amalgamation.

(v) development or expected development of the area in terms of increase or decrease of population and of expansion of the built-up area should be taken into consideration.

(vi) the local government area should be well balanced from an economic and industrial point of view in order to secure a vigorous and healthy community where the prosperity of one industry may offset a possible recession of another.

(vii) the local government unit's area should guarantee that it has sufficient financial resources measured in relation to its financial needs.

(viii) finally, the wishes of the inhabitants should be taken into account.

It is to be noted that the above regulations were made ten years ago. Since then the British Ministry of Housing and Local Government has taken a very radical view about amalgamation. As stated earlier, it has gone to the extent of suggesting the creation of 30 to 40 city-region councils throughout the country. In the light of its latest views some of its earlier views as enunciated above have become out of date. For instance, the view that community of interest should be one of the prime considerations in introducing amalgamation is not altogether practicable in a city-region council. In such a region there will be no homogeneous community of interests. Even so, the above guiding principles would still be generally useful in determining the size and population of a local government unit.

CHAPTER VI

AN ANATOMY OF LOCAL GOVERNMENT IN WEST MALAYSIA

401. So far we have considered the theoretical basis of local government and have made our observations and conclusions thereon as are relevant to us. Before we proceed to consider the future of the State Capitals and set out specific recommendations in regard to local government for West Malaysia, it is important at this juncture to make an anatomical assessment of the existing categories of local authorities in our country to provide a better appreciation of the subject.

402. There are at present the following categories of local authorities in the country:

Municipalities	3
Town Councils	37
Town Boards	37
District Councils	7
Local Councils	289

(*See* Table I for the number of units and their financially or non-financially autonomous status).

Municipalities

403. By far, the strongest and the oldest unit of local authority is the Municipality. As stated earlier it is more than 100 years old. There are at present 3 Municipalities that come within our enquiry, i.e. the City Council of George Town, the Municipality of Malacca and the Municipality of Ipoh. All these are State Capitals. The Municipality of the Federal Capital of Kuala Lumpur does not come within our enquiry.

404. All the Municipalities are fully elected. Each of them has a presiding officer who is known as Mayor in George Town and President in the other two places. The presiding officer is usually the leader of the majority political party in the Municipal Council, but not necessarily so. Each Municipality has 15 members all of whom are elected by adult franchise.

405. In terms of population and voter responsibility an elected Municipal Councillor has more number of persons to serve than in any other local authority. For instance the average Municipal Councillor has to serve the interests of 14,251 persons of whom 4,713 are voters. Areawise, he has to serve an average area of 0.99 square miles. (*See* Tables II and III).

406. Of all the categories of local authorities the three Municipalities cover the smallest area in the aggregate. Together, the total size of their area is 44.58 square miles. On the average each of them has an area of 14.86 square miles. They have, however, the highest population density anywhere in the country, barring of course, the Federal Capital. The total estimated population of all the Municipalities as at

December 1965 was 641,290 with an average of 213,763 persons for each of them. The total electorate in all the Municipalities as at that time was 212,105 with an average of 70,702 voters for each of them. (*See* Table IV).

407. In terms of revenue, however, the Municipalities are by far the richest local authorities in the country. Their total revenue for 1965 was $46,511,900 and their total expenditure was $43,652,500. Their revenue was approximately three times more than all the 37 Town Councils, nine times more than the 37 Town Boards, nine times more than the 289 Local Councils, thirteen times more than the 7 District Councils. In other words 60.2% of the total revenue of the 373 local authorities in West Malaysia accrues from the 3 Municipalities (*see* Table V).

408. The administrative machinery of the Municipalities is the most sophisticated of all the local authorities in the country. They have qualified lawyers as Secretaries and accountants as Treasurers. They have their own Engineers, Architects and Health Officers. In the case of the City Council of George Town it provides the services in respect of three public utilities, namely, water, electricity and public transportation. And in the case of the Municipality of Malacca, it provides the supply of water. The Municipality of Ipoh does not provide any of these public utilities.

409. Of the 4,223 elected councillors and nominated members in the Councils and Boards of local authorities throughout West Malaysia, the 45 elected councillors of the 3 Municipalities have undoubtedly greater roles to play. On the average every Municipal Councillor has to serve 14,251 residents of whom 4,713 are voters. That is to say, he has about 800% more residents and about 700% more voters than an average Town Councillor. Compared with a Local Councillor, a Municipal Councillor has 3,000% more residents and 3,600% more voters to serve. (*See* Table VI).

410. His financial responsibility is even more impressive. 4,223 elected councillors and nominated members in 373 local authorities throughout West Malaysia managed in 1965 a total revenue of $77,243,300. Nearly 60% of this revenue, that is to say $46,511,900 was managed by 45 elected councillors of the 3 Municipalities. This manifestly demonstrates the extent of the role and responsibility of a Municipal Councillor. He is required to handle public finance of no mean proportion.

411. The Municipal Councillor is also required to have his surveillance over a much larger and more sophisticated administration than his counterparts in the other local authorities. He has a wider scope to provide services by reason of bigger revenue and better administration. He has also a more well-informed and more articulate electorate to represent and a smaller but a relatively well-developed area to serve. These are also areas where there is a greater concentration of industrial and commercial workers compared to other areas of other local authorities.

412. Despite the aforesaid resources and facilities, both human and material, 2 of the 3 Municipalities have been taken over by their State Governments. The City Council of George Town was deprived of a representative role for alleged malpractices and maladministration and the Municipality of Malacca for alleged pecuniary embarrassment. It is to be noted that both these Municipalities are the oldest local authorities in the country.

Town Councils

413. We may now consider some of the basic facts related to the Town Councils that number 37 in all. Though these were created only after 1950, they were born out of the earlier Town Boards. As stated earlier when a Town Board is given an elective representation, whether wholly or partly, it is adorned with the name of Town Council.

414. The total population in the areas of all the 37 Town Councils is 1,086,516. The average population of a Town Council is 29,365. The total electorate in all the Town Councils is 391,297 and the average electorate per unit of Town Council is 10,576. (*See* Tables IV and VI).

415. There are in all 598 Town Councillors in the country, of whom 424 are elected, 130 are nominated unofficials and 44 are nominated officials. Of the 37 Town Councils, 30 of them have appointed Chairmen who are officials. Only in 7 Councils elected councillors serve as Chairmen. (*See* Table VII).

416. Of the 424 elected Town Councillors in the country each of them has to serve an average population of 1,817 and the average electorate per councillor is 923. (*See* Table VI).

417. Areawise, the total size of the areas covered by all the Town Councils is 167.35 square miles. The average area per unit of Town Council is 4.52 square miles and the average area per councillor is 0.28 square miles. (*See* Tables III and IV).

418. It is interesting to note that not all the Town Councils are financially autonomous in as much as not all the Town Boards are financially non-autonomous.

419. The responsibility of converting a Town Board into a Town Council is vested with the Ruler-in-Council in every State. In effect this means the State Authority in a State. So far, no consistent policy has been followed in this conversion exercise. No criteria determining the desirable minimal area, population or resources appeared to have been followed. For instance, there is the Bachok Town Council in the State of Kelantan. This is the smallest Town Council in West Malaysia. It has a population of 2,000. Its area is 0.25 square miles. Its annual revenue in 1965 was $21,515. At the other end is the Town Council of Johore Bahru which is the largest Town Council in West Malaysia. It has an approximate population of 100,000. Its area is 17.5 square miles. Its annual revenue in 1965 was $2,954,193.32. (*See* Appendix "D"). These disparities glaringly focus the tremendous gap between them.

420. Of the 37 Town Councils, there were 4 of them with a revenue exceeding $1,000,000 each. Seven had revenue between $500,000 and $1,000,000. Eighteen had revenue between $100,000 and $500,000. Six had revenue between $50,000 and $100,000. Two had revenue below $50,000.

421. In terms of population only the Town Council of Johore Bahru has a population of 100,000. Ten have between 50,000 and 100,000. Three have between 25,000 and 50,000. Sixteen have between 10,000 and 25,000. Three have between 5,000 and 10,000. Four have less than 5,000. (*See* Appendix "D").

422. Areawise too, the divergence is quite striking. For instance there are 4 Town Councils each of whose area exceeds 10 square miles. Nine range between 5 and 10 square miles. Seventeen range between 1 and 5 square miles. Seven have less than one square mile each.

423. It is clear that Town Councils have not been established on rational criteria. The gaps between the basic requirements of population, area and resources are so wide that they do not lend themselves to even approximate yardsticks. We can only comment that Town Councils have been created at random and with little or no consistency.

424. The Constitutions of the Town Councils can only be granted by the Ruler-in-Councils of the States. Though the granting of such a Constitution is a major milestone towards democratic representation, the extent of such representation and the pace governing it has not been the same throughout the country. In this connection, the Local Authorities Elections Ordinance, 1950, makes a particular difference which is worth noting. The granting of a Constitution to convert a nominated Town Board into an elected Town Council was made discretionary, whereas the granting of a Constitution to convert a nominated Municipal Commission into an elected Municipal Council was made mandatory. The Ordinance provides that in the case of Town Boards the Ruler-in-Council or the Governor may provide—note the difference in the case of Municipalities where it says "shall" provide—for the election of a majority of the members of the Town Board.

Town Boards

425. Let us now consider the Town Boards. These are no more and no less than State Government Departments. In local government semantics they may be aptly described as the deconcentrated agencies of the State Government as distinct from the decentralised body corporates. But we must make here a slight qualification. Not all the 37 Town Boards are deconcentrated State agencies. Six of them have been decentralised with body corporate status. The necessary corollary of a body corporate is financial autonomy. In other words, barring 6 Town Boards, the remaining 31 are non-financially autonomous. That means their revenue is merged with the State Treasury fund. The State Governments provide for their annual expenditure. In effect they are not allowed to keep their revenues and spend them as they desire. They function as part and parcel of the State Governments.

426. Though prior to 1950 Town Boards were a common feature in all the States, nowadays not all the States have Town Boards. Kelantan which is relatively less urbanised has replaced all its Town Boards with elected Town Councils. On the other hand Selangor which is relatively more urbanised has retained all its Town Boards except the one in Klang which has been converted into a Town Council. Two other States, namely, Penang and Malacca have never had Town Boards as such.

427. Town Boards too have been set up without a compass of comformable criteria. There is great divergence in the size, population and revenue of Town Boards. For instance, there is Batu Tiga in the State of Selangor. This is the smallest Town Board in the country, with a population of only 600 and covering an area of 0.5 square miles. Its annual revenue is $1,270.91. The largest Town Board in the country is also in the State of Selangor and just a few miles from Batu Tiga. This is the Town Board of Petaling Jaya, the base of the industrial nucleus of the country. It has a population of 55,000 with a relatively higher degree of sophistication. Its annual revenue is about $1.9 million and it covers an area of 7 square miles. It is a totally new township with modern town planning. Despite all these it has remained a Town Board.

428. Between the two extremes of Batu Tiga and Petaling Jaya, there are Boards of various sizes and populations. There are also Town Boards with strings of villages and other smaller towns attached to them. For instance the Town Board of Krian in the State of Perak has a population of 80,000 covering an area of 5 square miles. It has several small villages and a fair sized town attached to it.

429. The Town Boards have only nominated members. Their Chairmen are invariably the District Officer or his Deputy. Except in the case of financially autonomous Town Boards, the officers and other employees of the Town Boards are the servants of the State Government.

430. There are 530 nominated members of the Town Boards throughout the country of whom 335 are unofficials and 195 are officials. They serve a total population of 411,977.

431. The total revenue of all the Town Boards in the country in 1965 was $4,941,600 and the total expenditure for that year was $6,675,200. From these figures it is clear that the Town Boards were unable to operate within their means. They had to depend on the assistance of the State Governments.

District Councils

432. The next category of local authority is the District Council. There is a slight difference in the nomenclature in so far as this category is concerned. Not everywhere is it called the District Council. In the State of Penang it is called the Rural District Council in the island proper. In Province Wellesley it is called the District Council, North or South or Central. In Malacca it is known as the Rural District Council. Names apart, they do cover wide regions. Generally, they are co-terminus with the existing administrative districts. This is so in the case of Province Wellesley and Malacca. Every District Council has a rural and an urban base.

433. At present there are only 7 District Councils in the country. They are all in the States of Penang and Malacca which were both parts of the former Straits Settlements. Of the 7 District Councils, 4 of those in the State of Penang are financially autonomous. The remaining 3 Councils in the State of Malacca are not financially autonomous.

434. All the District Councils in the State of Penang are fully elected including their Chairmen, whereas the District Councils in the State of Malacca have the majority of their councillors elected. Their Chairmen, however, are nominated officials who are District Officers.

435. There are in all 120 District Councillors of whom 108 are elected by adult franchise, 9 are nominated unofficials and 3 are nominated officials.

436. In terms of area, the District Councils are the largest category of local authority in the country. They cover a total area of 977.33 square miles. The average area that a councillor has to serve is 8.14 square miles. Compared with a Municipal Councillor, a District Councillor has to represent an area that is about 8 times larger. (*See* Table II).

437. The total population in the District Councils is 811,562 of whom 271,066 are voters. The average population for a District Councillor is 6,763—second only to the Municipal Councillor—and the average electorate per District Councillor is 2,509.

438. The District Council of Alor Gajah in the State of Malacca has 261.49 square miles whereas the District Council Central of Province Wellesley has the smallest area of 88.83 square miles. The District Council of Malacca Central has the highest population of 230,000 whereas the District Council South in Province Wellesley has the smallest population of 53,081. The average population per unit of District Council is 115,937 of whom 38,724 are voters.

439. The divergence is equally wide in their financial resources. Take for instance the Rural District Council of Penang Island. In 1965 its revenue was $1,282,122. On the other extreme is the instance of the District Council of Jasin in the State of Malacca. Its revenue in 1965 was $113,572.

Local Councils

440. Now we come to the Local Councils which are the most numerous in terms of a single category of local authority. There are at present 289 Local Councils in West Malaysia. They cover a total area of 426.27 square miles. The average area per unit of Local Council is 1.47 square miles. Compare this with the average area of a District Council which is 139.62 square miles.

441. The total population of all the Local Council areas is 1,287,298 of whom 374,210 are voters. There are at present 2,930 local councillors throughout the country of whom 2,446 are elected, 364 are nominated unofficials. The average area that a local councillor serves is 0.15 square miles and the average electorate per elected councillor is 153.

442. The total revenue in 1965 of all the Local Councils was $5,008,000 and their aggregate expenditure was $6,859,700. They are all financially autonomous but in practice they are dependent on the State Governments for regular balancing grants to balance the deficit of their annual budgets.

443. The Local Councils too have been set up rather hurriedly without basic criteria. The extremes are striking and defy rationality. For instance, of the 289 Local Councils, there are 15 of them which have a population of 10,000 and above. The largest Local Council in the country is in the State of Selangor. It is the Jinjang Local Council with a population of 30,000 in an area of 540 acres. The next two largest are the Serdang Bharu Local Council in Selangor and the Pangkal Kalong Local Council in Kelantan both having 18,000 population. The following illustrates the population structure of Local Councils in West Malaysia:

Population Range	No. of Local Councils
10,000-30,000	15
5,000-9,999	38
3,000-4,999	54
1,000-2,999	131
500-999	36
Less than 500	15

444. The areas of Local Councils vary in sizes in great contrasts. Again the Local Council of Pangkal Kalong in Kelantan provides the extreme. The area of this Council is 24 square miles. On the other end of the scale is the Local Council of Jeram in

Selangor which covers only 0.019 square mile. There are many Local Councils which are no more than very tiny villages. There are others which are modest towns covering not insignificant areas. Here again no formula has been adopted in demarcating the boundaries of Local Councils to provide some uniformity.

445. The wide gaps in the fields of population and areas are also reflected in the revenues of the Local Councils. The following table will serve to illustrate this:

Range of Revenues in 1965	No. of Local Councils
$100,000 and above	3
$50,000-$99,999	12
$25,000-$49,999	46
$15,000-$24,999	50
$10,000-$14,999	55
$5,000-$9,999	62
$1,000-$4,999	54
Less than $1,000	7

446. In the foregoing paragraphs we have considered the existing categories of local authorities on a comparative basis so as to highlight the wide differences between them. We will now proceed to consider the future of the State Capitals in the following Chapter.

CHAPTER VII

STATE CAPITALS

HISTORICAL REVIEW

447. The Terms of Reference make special reference to the State Capitals. They require us to consider and report as to whether State Capitals in their present forms have served any useful purpose and if not, why not, and whether or not they should continue to be in their present forms.

448. It is not for us to speculate as to why the State Capitals have been singled out in the Terms of Reference. All we had to do was to consider the State Capitals as a separate entity within the context of our enquiry.

449. There is no definition as to what constitutes a State Capital. By custom and convention it has been recognised in West Malaysia to be the place where the three limbs of the State, namely, the Legislature, the Executive and the Judiciary are seated. It is not necessarily where the Ruler of a State resides. In West Malaysia all these three limbs are invariably situated in a single town in every State, which has been represented to us as its Capital.

450. The 10 Capitals of the respective States are: Alor Star, City of George Town, Ipoh, Johore Bahru, Kangar, Kota Bharu, Kuala Trengganu, Kuantan, Malacca and Seremban (not including Kuala Lumpur).

451. Kuala Lumpur is in a unique position. Whereas by Constitution it is declared to be the Federal Capital, it is also for the present the seat of the State of Selangor. Its local authority, namely, the Municipality of the Federal Capital however falls within the jurisdiction of the Federal Government *vide* Federal Capital Act (1960) and not under the Selangor State Government. As such, the local authority of the Federal Capital does not come within our ambit of enquiry. Hence, our task is limited to the remaining 10 State Capitals in the country.

452. All the 10 State Capitals have local authorities, but they are not of the same category. Even within the same category there are shades of not insignificant differences in terms of scope and powers. In their stages of growth, autonomy, functions and powers there are differences between them. A snap-shot historical review of all the 10 State Capitals would be illustrative at this stage.

453. *Alor Star.* Capital of Kedah State. Before the War, the town was administered by a Sanitary Board whose members were appointed by the Government. In November 1946 the Sanitary Board was replaced by the Town Board of Kota Star and the earlier Sanitary Board legislation was re-styled as the Town Boards Enactment. The members of the Town Board were also appointed by the Government. In 1953 the town of Alor Star was given Town Council status and styled as the Town Council of Alor Star. In the same year there was a partial election to the Town Council with a nominated Chairman. On January 1, 1957, the Town Boards Enactment (F.M.S. Cap. 137) was extended to the State of Kedah which became the sole legislation governing the Town Boards in the State. When the Town Council had partial election it had 15 elected members,

3 nominated unofficials and 5 nominated officials. At present the Council is fully elected with an elected Chairman. It is financially autonomous. Its actual revenue for 1965 was $503,246 and its actual expenditure for that year was $704,132. Its arrears of revenue as at 31st December 1965 were $264,092. It has no reserve fund. The approximate population of the town is 80,000 of whom 26,594 were on the electoral list in 1963. It covers an area of about 5 square miles.

454. *City of George Town*. Capital of Penang State. In a number of ways George Town is unique in its history which has been more thoroughly dealt with in Chapter II.

455. It would suffice here to focus only on some of its salient features. George Town has its pride of place by being the oldest local government unit in the country. It is more than 100 years old. It has been first in a number of achievements. For instance it was the first Municipality to have a fully elected Municipal Council. It was the first town to be given a city status. The first and only Mayor in the country is that of the City of George Town. It is the richest local authority in the country with its annual revenue almost double that of the State of Penang.

456. By virtue of the Local Authorities Elections Ordinance, 1950, a Constitution was granted to the Municipality of George Town by a resolution of the (Penang) Settlement Council on 30th April, 1951. This resolution fixed the number of councillors at 15, of whom 9 were to be elected and 6 appointed. Unitl 1956 the Municipal Council comprised partially elected and partially nominated members. It had a senior Malayan Civil Service officer as President, who was also the chief administrative officer of the Council.

457. On 1st January, 1957, George Town was given a city status by Letters Patent granted by Queen Elizabeth II. This received legislative recognition by virtue of the City of George Town Ordinance No. 50 of 1957 and by reason thereof the Municipality of George Town was styled as City Council of George Town.

458. With the passage of the Local Government Elections Act, 1960, a new Constitution was granted to the City Council which came into force on 1st April, 1961.

459. The City Council of George Town is financially autonomous. The area of the City Council is about 6,000 acres. Its estimated population in mid-1966 was 286,291. Its electorate number 97,159. Its actual revenue for 1965 was $34,342,739.31 and its actual expenditure was $31,212,021. The arrears of revenue as at 31st December, 1965 were $165,104. Its reserve fund at the end of 1965 was $6,037,535.

460. At the time this Report is written the administrative powers of the City Council are vested in the Chief Minister, Penang State. This was brought about by the City Council of George Town (Transfer of Functions) Order, 1966, under which all the functions of the Council were transferred to the Chief Minister to enable a Commission of Enquiry "to enquire into and report on the acts of maladministration and mal-practices and breaches of law committed by the City Council of George Town since 31st December, 1958, to the present date (30th June, 1966)". The Commission has completed its enquiry and its report has since been published. The City Council continues to be administered by the Chief Minister, Penang State.

461. *Ipoh*. Capital of the State of Perak. Prior to World War II Ipoh formed part of the Kinta Sanitary Board which was constituted under Section 3 of the Sanitary Boards Enactment (F.M.S. Cap. 137). It then consisted of government officers and other unofficial

members appointed by the Ruler-in-Council having control of the following areas: Ipoh, Menglembu, Batu Gajah, Pusing, Papan, Siputeh, Tronoh, Tanjong Tualang, Lahat, Tambun, Tanjong Rambutan, Chemor, Kampong Kapayang, Simpang Pulai, Kampar, Gopeng, Malim Nawar, Kota Bharu, Kuala Dipang and Sungei Siput South.

462. On 1st January, 1954, the Ipoh and Menglembu areas were excised from the Kinta Sanitary Board and became known as Ipoh and Menglembu Town Board *vide* Perak *Gazette* Notification No. 2182 of 7th January, 1954.

463. On 1st July, 1954, the Ipoh and Menglembu Town Board became styled as the Ipoh and Menglembu Town Council and was divided into four electoral wards. From each ward 3 members were elected *vide* Perak *Gazette* Notification No. 146 of 11th February, 1954. Five other members were nominated to the Council and one of them was appointed by the State to be the Chairman.

464. On 1st January, 1956 Ipoh became a financially autonomous Council *vide* Perak Government *Gazette* No. 1858 of 11th January, 1956.

465. On 1st April, 1961 a new Constitution of the Ipoh Town Council was promulgated whereby 18 of its members were elected with a Chairman appointed by the State *vide* Perak L.N. 10 of 30th March, 1961.

466. On 31st May, 1962 the former Ipoh Town Council attained Municipal status *vide* Perak L.N. 33 of 31st May, 1962 with a Council fully elected and comprising 18 councillors with its President elected from amongst the councillors.

467. The Ipoh Municipality continues to be administered by a Council of 18 elected councillors with a President elected from amongst them. It is financially autonomous. It covers an area of 31 square miles. Its estimated population totals 275,000 of whom 82,806 persons are on the electoral list. Its actual revenue for 1965 was $7,908,533 and its actual expenditure for that year was $6,789,675. Its arrears of revenue as at 31st December, 1965 stood at $119,185. Its reserve fund at the end of 1965 was $2,844,382.

468. *Johore Bahru*. Capital of the State of Johore. Johore Bahru was established in 1885. There were then few settlers who were mostly farmers and who were sparsely settled. There was hardly any community-living among them. The Temenggong who ruled Johore lived in Singapore and his administration was in the hands of the local Chiefs who shuttled back and forth. As trade became more active and prosperous and the population increased, the few shops that existed became the centre of communal life around which grew the town. As the affairs of the State became more pressing the Temenggong moved to Johore Bahru in 1889.

469. The first municipal revenue appeared to have been collected and classified as early as 1909. The first local government legislation passed in the State was the Johore Town Boards Enactment of 1911, under which Johore Bahru was administered. Until 1912, however, no proper Board was established to administer the town. It was in that year that the Town Boards of not only Johore Bahru but also of Bandar Maharani and Bandar Penggaram were set up.

470. The power to make subsidiary legislation was with the Sultan in Council until 1932 when the Town Board was given power to make by-laws subject to confirmation by His Highness in Council.

471. As a result of the Local Authorities Elections Ordinance, 1950 three Town Councils were established in the State, one of them being Johore Bahru. Initially the Town Council was partially elected but subsequently it became fully elected with an official of the Johore State Civil Service appointed as its Chairman.

472. The Town Council of Johore Bahru was taken over by Johore State Government with effect from April 17, 1966 on the grounds of alleged maladministration and malpractices.

473. The approximate population of Johore Bahru Town Council area in 1965 was 100,000 of whom 27,718 were on the electoral list. The total area of the Town Council is 17.5 square miles. At the time it was taken over it had a total of 17 members, of whom 14 were elected and 3 were nominated officials. The President of the Council was an official whereas the Deputy President was an elected member. The actual revenue for 1965 was $2,982,132 and the actual expenditure for that year was $2,982,348. However, as at the end of December 1966, there were accumulated arrears of revenue in the sum of $512,068. It has no reserve fund.

474. *Kangar.* Capital of the State of Perlis. Before Kangar was constituted as a Town Council on January 1, 1957, there was a "Town Board of Perlis" consisting of Kangar, Arau, Simpang Ampat, Kuala Perlis, Padang Besar, Pauh and Kaki Bukit. As it was felt that the local government in the State should be re-organised with financial autonomy wherever possible His Royal Highness the Ruler of Perlis appointed a Commission to report and recommend on the subject of local government in the State of Perlis. The Commission was appointed under the Chairmanship of Y.B. Tuan J. Hamer, M.C.S., British Adviser to Perlis with five other members.

475. The Commission completed its report in 1956 in which it recommended that Kangar, Arau and Kuala Perlis be amalgamated under one administration namely, "Town Council of Kangar" with financial autonomy as from July 1, 1957.

476. In 1961 elections to the Council were held and 12 councillors were elected. The Chairman, however, was appointed by the State Authority.

477. The second election to the Council took place in 1963, when 12 members were elected to the Council. In addition 8 councillors were appointed 3 of whom were unofficials and 5 officials. The Chairman of the Council was an official. The population of the Town Council is about 15,000 of whom 8,144 were on the electoral list. The total area of the Town Council is 15 square miles. The actual revenue for the year 1965 was $374,889 and the actual expenditure was $398,293. The accumulated arrears of revenue as at 31st December, 1965, were $324,447. It has no reserve fund.

478. *Kota Bharu.* Capital of Kelantan State. This town had its first semblance of Local Authority in 1928, when it was proclaimed as a gazetted area for purposes of law under the Municipal & Health Enactment, 1928. The area of the town was determined in Schedules I & II of the Kelantan Government Notification No. 21 of 1929. The area was further enlarged in 1931 and in 1939. It was then gazetted as a Town area under Section 5 of the Kelantan Land Code, 1938, and as a gazetted area under Section 3 (ii) (*a*) of the Kelantan Municipal Enactment, 1938.

479. Until July 4, 1953 the town was administered by the Town Board of Kota Bharu. It was then converted into a Town Council by an Order issued under Section 51 (1) of

the Local Authorities Elections Ordinance, 1950 by the Ruler-in-Council. The first Kota Bharu Town Council elections were held on the same date. Nine councillors were elected from 3 wards. Sixty-six per cent of the registered voters took part in the election. The Council obtained financial autonomy on January 1, 1958, under Section 6 (A) (1) of the Kelantan Municipal Ordinance, No. 20 of 1938.

480. It has now an area of approximately 4.4 square miles, and a population of about 55,000. There are now 6 electoral wards, each electing 2 councillors. The electorate for 1966/1967 was 21,428. At present it has an appointed Chairman who is a Government officer and 12 elected members. Three officers, namely, the Assistant District Officer of Kota Bharu, the Chief Medical Officer, Kelantan, and the Executive Engineer, Kelantan, are appointed officials. The Assistant District Officer of Kelantan is the Deputy Chairman of the Council. Its actual revenue for 1965 was $675,055.23 and its actual expenditure was $715,055. The arrears of revenue in that year were $469,240. It has no reserve fund.

481. *Kuala Trengganu.* Capital of the State of Trengganu. From December 1937 the town was administered by the Town Board of Kuala Trengganu. The Board then consisted of nominated members who were prominent members of the town. At that time the area of the Town Board was 1.72 square miles and its population then was approximately 10,000.

482. In 1950 the town was extended to 4.29 square miles. The status of the Town Board was converted into that of a Town Council in 1953 by virtue of the Local Authorities Elections Ordinance 1950. The Council then had 15 members. They consisted of 4 officials, 9 elected and 2 nominated members. The population in 1953 had increased to 29,441 persons. Between 1954 and 1965 the area of the Town Council was further increased to 5.7 square miles. At present the Town Council which is non-financially autonomous has 16 members. They consist of 3 official members who are the Collector of Land Revenue, the Engineer and the Medical Officer of Health of Kuala Trengganu. Twelve of the members are elected. The Chairman is a Government official appointed by the State Authority. The present population is approximately 55,000 of whom 20,348 are on the electoral list. The last elections to the Council were held in 1963. The actual revenue for 1965 was $320,358.46 and the actual expenditure in that year was $707,664.95. The arrears of revenue as at 31st December, 1965, were $115,446.21. It has no reserve fund.

483. *Kuantan.* Capital of the State of Pahang. Kuantan was first made a Sanitary Board by F.M.S. *Gazette* No. 5157 of 1928 and was administered as such until the end of the Second World War. By Proclamation No. 31 *vide* G.N. No. 99 of December, 31, 1945 the British Military Administration converted the Sanitary Board into a Town Board. Later by Pahang G.N. No. 181 of May 1, 1952 the Pahang Government declared Kuantan as a Town Board Area.

484. With the passing of the Local Authorities Elections Ordinance, 1950 (*vide* Pahang G.N. No. 454 of December 3, 1953) the Ruler-in-Council granted a Constitution whereunder the Town Board Area became a Town Council of Kuantan with nine members elected and eight appointed by the Ruler-in-Council. The District Officer of Kuantan was appointed Chairman of the Council.

485. In October 1955 the Council was declared to be financially autonomous. In 1959 it became a fully elected Town Council, *vide* G.N. (Pahang) No. 105 of March 19, 1959 consisting of 15 councillors, including a Chairman and three ex-officio councillors appointed by the State Authority. The District Officer continued to be the Chairman.

486. The present Constitution was granted in 1960 *vide* Pahang L.N. No. 14 and with effect from April 3, 1960 the Council elected its own Chairman from among the elected councillors. The three appointed Government officials continue to sit in the Council as ex-officio members.

487. The approximate population of the Town Council area is 35,000 of whom 11,588 were on the electoral list in 1965. The total area of the Town Council is about 9.5 square miles. Its actual revenue for 1965 was $412,829 and its actual expenditure was $520,528. The arrears of revenue as at the end of 1965 were $205,928. It has no reserve fund.

488. *Town and Fort of Malacca.* Capital of the State of Malacca. This is the oldest town in the country. Like the City of George Town it has had a long history in the field of local government. Its Municipality is over 100 years old. Its history is interlinked with that of the City of George Town as these two towns were administered under the same laws of the Straits Settlements. For the earlier history of the town, see Chapter II.

489. Prior to 1950 the Municipality of the Town and Fort of Malacca was administered by several Commissioners appointed by the High Commissioner-in-Nominated Council with the Resident Commissioner of the State of Malacca as President of the Council.

490. Until then the Constitution of the Municipal Commission was provided in the Municipal Ordinance (S.S. Cap. 133). With the passing of the Local Authorities Elections Ordinance, 1950, drastic amendments to Part II of the Municipal Ordinance were effected and a Constitution divorced from the provisions of the Municipal Ordinance was granted to the Municipality *vide* Malacca G.N. 126/1951.

491. This Constitution provided for a partially elected Council with nine elected and four appointed councillors with a President appointed by the High Commissioner.

492. By reason of the Local Government Elections Act, 1960 which superseded the 1950 Ordinance, the Constitution was amended by Malacca L.N. 4 dated January 1, 1961 and thereupon the Council became fully elected with 12 members and with a President elected annually by the Council from amongst its councillors.

493. On September 21, 1966 the Constitution of the Town and Fort of Malacca was suspended by the State Authority and an Order (the Malacca Municipal Council (Transfer of Functions) Order, 1966) was made whereby all the functions and powers of the Malacca Municipal Council including those of the President, Deputy President and the Municipal councillors were vested in the Chief Minister, Malacca State. The said functions were later transferred to Dato' Tan Cheng Swee, D.K.S.J., J.P., who is now styled as the Commissioner. The suspension of the Constitution was effected on the ground that the Municipality was suffering from a state of pecuniary embarrassment.

494. Malacca Municipality administers an area of 4.22 square miles in a State of 640 square miles. But its population is almost one-fourth of the State's population.

The Municipality's population according to the 1957 Census was 69,848, whereas that of the State was 291,211. The number of electorate in 1965 within the Municipal area was 32,140. In the case of revenue, the Municipal revenue is about 40% of the revenue of the State. The annual Municipal revenue averages $3.5 million whereas the annual revenue of the State averages $8.3 million. The actual revenue for 1965 was $3,656,696 and the actual expenditure for that year was $3,984,143.93. The arrears of revenue as at 31st December, 1965 were $336,900. Its reserve fund at the end of 1965 was $810,618.

495. *Seremban.* Capital of Negri Sembilan. The history of local government of this town is traceable back to 1897 when the first Enactment (No. 9 of 1897) authorised the Resident to appoint Sanitary Boards, including that of Seremban. N.S. *Gazette* Notification No. 285 dated September 15, 1899 defined the Seremban Sanitary Board area as including Gedong Lalang, Rasah, Mantin, Setul and Broga. Until the introduction of the Town Boards Enactment (F.M.S. Cap. 137), the Sanitary Board at Seremban continued to function under the original Sanitary Boards Enactment which was first revised in 1903 and then in 1904, 1907, 1916 and 1929.

496. In the early years the Sanitary Board was administered by a Secretary. In 1920, a Miscellaneous Officer was appointed as the first full-time Chairman. After him, the appointment of Chairman was concurrently held by successive Malayan Civil Service officers holding such posts as Magistrate, Secretary to the Resident, Protector of Chinese, and Assistant Controller of Labour. From 1933 till the outbreak of the Second World War, the District Officer, Seremban, was the Chairman of the Seremban Sanitary Board.

497. The Sanitary Board of Seremban continued throughout the Japanese occupation with a Japanese Officer as Chairman and the Health Department was amalgamated with the Sanitary Board. After the war the British Military Administration continued with the Sanitary Board for a few months. In January 1946 the Sanitary Board was converted into a Town Board by *Gazette* Notification No. 143 dated January 12, 1946.

498. The Town Board, Seremban, remained as such until 1953 when the Constitution of the Town Council of Seremban Order was promulgated by the Ruler-in-Council *vide* N.S. *Gazette* Notification No. 262 dated April 14, 1953 pursuant to Section 51 (1) of the Local Authorities Elections Ordinance, 1950.

499. The first elections to the Town Council were held on August 22, 1953. The Council then comprised 12 elected and 3 nominated councillors, with a Malayan Civil Service officer as Chairman. The above Constitution was amended by the Town Council of Seremban (Amendment) Order, 1958 (N.S. G.N. No. 17 dated January 22, 1958) which provided for a fully elected Council. This Constitution was further replaced by a new Constitution made under Section 5 of the Local Government Elections Act, 1960 *vide* N.S. L.N. No. 14 dated March 17, 1961.

500. The Seremban Town Council became financially autonomous in 1955 as a result of a declaration made by the Ruler-in-Council under Section 12A of the Town Boards Enactment (F.M.S. Cap. 137) *vide* N.S. G.N. No. 293 dated May 19, 1955.

501. The first elected President assumed office on January 1, 1959. Five successive elected councillors held office as President between January 1, 1960 and July 22, 1965.

502. In exercise of the powers conferred by sub-section (v) of Section 14 of the Town Boards (Negri Sembilan) (Amendment) Enactment, 1962, the Menteri Besar Negri Sembilan caused an enquiry to be held by the appointment of a Commission of Enquiry under sub-section (3) of Section 2 of the Commissions of Enquiry Ordinance, 1950 to enquire into any incidents of maladministration and malpractices in the Seremban Town Council since July 1, 1959. The Commission commenced hearing on June 28, 1965 and ended on August 12, 1965.

503. Under powers provided under Section 14 (v) of the Town Boards Enactment the Menteri Besar, Negri Sembilan, transferred to himself the functions of the Seremban Town Council with effect from July 23, 1965 under the Seremban Town Council (Transfer of Functions) Order, 1965 (N.S. L.N. No. 11 dated July 22, 1965). Consequent on the Report of the Commission of Enquiry the functions of the Seremban Town Council remained transferred to the Menteri Besar, Negri Sembilan, until further notice under the Seremban Town Council (Transfer of Functions) No. 2 Order of 1965. Under the Seremban Town Council (Suspension) Order, 1966 (N.S. L.N. No. 18 dated October 13, 1966) the elected councillors ceased to hold office from July 1, 1966. At the time the Town Council was taken over all its members were elected including its Chairman.

504. The population of the Town Council area according to the 1957 Census was 52,000 of whom 18,549 were on the electoral list. The area of the Town Council is 5 square miles. Its actual revenue for 1965 was $1,278,900 and its actual expenditure was $1,661,718. Its arrears of revenue as at 31st December, 1965 were $705,768. The reserve fund as at 31st December, 1965 stood at $1,528,515.

SOLUTIONS PROPOSED—THEIR MERITS AND DEMERITS

505. The foregoing historical sketch of local authorities in the State Capitals proves beyond doubt one common phenomenon. It is the existence of a local authority in every State Capital for a considerable period. Whether it was a Sanitary Board or a Town Board or a Town Council or a Municipality or a City Council, the need for a local authority was never in question. Even the Terms of Reference do not expressly require us to consider whether the categories of local authorities in the State Capitals were necessary or not necessary. They only require us to consider whether they "serve any useful purpose" in their present forms. And if they do not serve any useful purpose what in our view would provide a useful alternative. This was the question before us for which we set out to seek the answer through our enquiry. Broadly there were three views presented to us. They were:

(*a*) those who said that it was not necessary for a State Capital to have a separate local authority and that the administration of the State Capital should be merged with the various departments of the State Government similar to the integration of the former City Council of Singapore with the Government of Singapore;

(*b*) those who preferred the local authority on the pattern of Kuala Lumpur, the Federal Capital;

(*c*) those who supported maintenance of the status quo with necessary modifications in the light of experience gained.

Each of the above three propositions deserves close scrutiny and analysis.

Integration

506. Proposition (*a*) above borders on extremity. It does not support any form of local authority for a State Capital. Literally it wants the State Government to administer the affairs of the State Capital. In other words all the services of the State Capital will have to be provided by the various departments of the State Government.

507. Some of the notable reasons given in support of this proposition were:

(i) the State Capital is the seat of the State Government and is often the town where the Ruler of a State resides, thereby having the prestigious status of Royal Town;

(ii) it is the direct responsibility of the State Government to develop the State Capital in keeping with its status by deploying its resources and its administrative machinery;

(iii) the State Capital should not be left in the hands of a local authority with little or no viable financial resources or administrative capability or efficiency;

(iv) the direct administration of the State Capital by the State Government would not be a denial of democracy, since there is already democracy at the state and national levels. The affairs of the State Capital can be raised in and considered by the State Legislative Assembly. Thus a ratepayer can ventilate his views through the state assemblymen in and outside the Assembly;

(v) Malaysia is a small country with too many tiers of governments and too much of democracy. The country can ill afford this luxury. Nothing would be lost by doing away with the local authority not merely at the State Capitals but in other areas as well;

(vi) the State Capital should not be subjected to the pressures, pulls and vagaries of party politics which may not see eye to eye with the State Government;

(vii) a separate authority decentralised from the State Government creates a dichotomy in administration and generates undesirable frictions between the two, especially where the two governments are not in the hands of the same political party. This is unhealthy and tends to produce centrifugal forces at the expense of concord and cohesion.

508. The above reasons in support of proposition (*a*) did not go without being vehemently challenged. The following were typical answers:

(i) the fact that the State Capital is the seat of the State Government or that it is also, in most cases, the Royal Town, does not justify the abolition of the local authority in a State Capital. A local authority can usefully co-exist with a State Government. The existence of a local authority is not an anathema to the Royal flavour of a State Capital. Most Capitals in the world have also their local authorities and it is not uncommon for Constitutional Heads, be they Kings or Presidents or Governor-Generals to live in their capital cities;

(ii) there is nothing to prevent a State Government being beneficient to its Capital by deploying its resources with or without conditions for the development of its Capital. Similarly, a State Government can always lend its administrative support to its Capital, if it so wishes. But the reality is that several State Governments are themselves in such financial doldrums that any substantial

deployment of economic resources for the uplift of State Capitals is too glaringly academic. It would be unreal to expect that the prospects of the State Capitals would dramatically change for the better any more or faster than they have so far done, simply because the administrations of the State Capitals are integrated with their State Governments;

(iii) if a local authority is financially weak or administratively incapable, then remedy lies in curing these defects and not in killing the entire authority. Centralisation or integration of authorities does not *ipso facto* ensure greater financial strength or administrative efficiency any more than a decentralised authority can do with certain basic safeguards;

(iv) the direct administration of the State Capital by the State Government without even a local authority would certainly mean a negation of democracy at the ground level. Democracy at this level is a grass-root democracy. It provides the citizenry a base for participation in determining and discharging the affairs of its locality. The State Legislative Assembly is no real substitute for a local authority or for participation of the citizens at their local level. The ratepayer cannot get adequate and legitimate representation through the State Assemblymen. Most Assemblymen in a State come from outside the State Capital. Naturally, they will not be directly interested in the local affairs of a State Capital;

(v) the affairs of a local authority are too numerous and too parochial to be adequately discussed and deliberated in the State Assembly. The State Assembly will not have the time or the inclination to engage itself too deeply in the affairs of its State Capital. This would mean inadequate representation for the ratepayers;

(vi) it would be too difficult for the ratepayers to ventilate their views, grievances or complaints about day-to-day matters through the State Assembly. Though such complaints could be made to the officials of the relevant departments, that would not be quite the same as making them to the elected councillors of their local authority;

(vii) to sacrifice local government in State Capitals and elsewhere on the ground that the country is loaded with too much of democracy is self-deceiving and self-defeating. Democracy at the grass-root level is a vital prop for the consolidation of democracy at the state and national levels. If the people are considered to be unsuitable for democracy at the local level, then how could they be suitable or eligible for democracy at the State or national levels?

(viii) it is not essential that the State Government and the State Capital should always be in the control of the same political party. This by itself will not ensure identity of views or complete harmony between the two. The State Government and the State Capitals are two separate administrative units and it is but natural that there should be healthy differences of views between them. Monolithic centralism would not generate vibrant growth.

509. The above are by no means exhaustive of all shades of views expressed for and against integration of the State Capital with the administration of the State Government. But they nevertheless epitomise the main views.

510. We gave due consideration to the question of integration and to the arguments from both sides. In the end we could not but reject the idea of integration. Not because the grounds in support of integration were wholly destitute of substance, but because in the scheme of administrative rationalisation, we felt that the State Capital like any other urban centre should have its local authority to generate local participation and local incentives in providing local services.

511. Singapore was highlighted to us as a successful instance. But we could not agree with this comparison. It does not require great wisdom to realise that the circumstances of Singapore are not the same as those of the State Capitals in West Malaysia. There was perhaps a strong case for the integration of the Singapore City Council with the State Government of Singapore—apart from certain public utilities which were decentralised—on the ground that a dichotomy in administration was redundant in a small island which is virtually a City State. Conversely, however, there was justification for a local authority as distinct from a State Government during the era of the Straits Settlements; but it became unnecessary when Singapore became a separate and a single State.

512. Here, in West Malaysia, we have a relatively greater land mass with Central and State governmental structures. A State in West Malaysia is a larger territorial unit with a more extensive rural base than Singapore. Conversely, Singapore has a compact and a large urban base with a small hinterland which is being progressively urbanised. A single governmental unit therefore is not merely practical, but is also effective in a City State. On the other hand, the State Government in West Malaysia is not an ideal administrative unit to serve also as a local authority in its Capital where it is required to serve a wider and divergent, if not conflicting, territorial interest.

513. We were not impressed by the argument that the country being small as it is and with a limited population is suffering from an over-dose of governments and that the culprit that should be sacrificed is the local authority in the State Capitals and elsewhere. Whether a country has a unitary government or a federal government, it is universal to have local authorities. A local authority is not desired for its own sake. It is more often than not a necessity, not just a desirability. Services, local in character, have to be provided by the instrument of a local authority. A local authority may be expanded to serve a wider area. But this is not to say or mean a State Government can also serve as a local government.

514. The other view that there is an overflow of democracy in the country and that it is both unnecessary and expensive and that it is sufficient to have democracy at the Central and State levels but not necessary at the local level is both provocative and interesting. What is meant by democracy here is the elective representation to the local authorities. This is really a different question from that of the one which calls for the abolition of the local authorities and the integration of local services with those of the State Government. This will be dealt with in greater depth at a later stage. Here, it suffices to say that in public administration democracy can be injected at all levels or at some levels or at no levels. This depends on the political philosophy of a country. A dictatorship or an authoritarian regime may have basic democracy at the local level and have no democracy at the State or Central levels. Or it may have no democracy at all at any level, whether local, regional or central. Yet, it may have

three tiers of government, i.e. central, regional and local. Or it may have two tiers of government, i.e. central and local. So, even in an authoritarian regime the necessity for a local government is recognised for division of functions, efficacy and expediency. Whether such divisions should be representative or nominative is a different question that often flows from a country's political philosophy.

515. Similarly, there are democratic countries which are federal or unitary in character. They normally have all their tiers of governments based on elective representation as in the United States, the United Kingdom or India. Democracy is not usually denied to the local tier on the ground that there is too much of democracy in the country. But that does not mean that all the democratic countries apply democracy to the same degree. There is the United States which is extreme in its application of democratic ideas. There they even elect their officials such as their local judges and sheriffs. This would be abhorrent to the English system of local democracy which we follow here. In England, only the local councillors are elected but not the officials. On the other hand a country may have a fully elective representation at the national level with no such representation at the local level; but of course this would be a limited democracy. A country to be fully democratic should have a co-ordinated democracy at all levels of its government. Denial of democracy at any one level would to that extent be incomplete.

516. We are therefore of the view that West Malaysia is not overloaded with democracy. Whether it is overloaded with governments is not for us to comment. Unlike the Danish Constitution, our Constitution does not guarantee that all urban local authorities shall have the right to manage their affairs under the supervision of the State or, like the German Constitution, our Constitution does not provide that the local authorities shall be elected by means of universal franchise. What our Constitution provides is that it makes it obligatory on the part of the National Council for Local Government to formulate "a national policy for the promotion, development and control of local government throughout the Federation and for the administration of any laws relating thereto". It does not go explicitly as far as the Danish or the German Constitution.

517. Despite the permissive existence of the local authorities in West Malaysia and notwithstanding the arguments in favour of integration we are of the view that every State Capital should continue to be endowed with a local authority to manage its own affairs within the supervision of the State Government.

Federal Capital Commission System

518. Proposition (*b*) was that every State Capital should have a local authority on the pattern of Kuala Lumpur. Here the need of a local authority was not in dispute. The point that was raised was that a local authority in a State Capital should follow the pattern of Kuala Lumpur.

519. At the outset and during the course of our enquiry we noticed that the specific inclusion of State Capitals in the Terms of Reference had given rise to a stereotype response in most States. Perhaps a lot more was read into the Terms of Reference than was justified. There were views starting from the Kelantan Government that State

Capitals should be administered like the Federal Capital. To nearly all the State Governments the Advisory Board system of the Municipality of Kuala Lumpur appeared to be the ready-made and a near perfect model to emulate.

520. Before we proceed further it is necessary to have a proper comprehension of the system that prevails in the Federal Capital. Its main features are as follows:

(i) the affairs of the Municipality of the Federal Capital are administered by a Commissioner;

(ii) the Commissioner is assisted by an Advisory Board whose advice the Commissioner is not bound to accept though in all cases where the Board's advice is not accepted he should have a record of the grounds and reasons for not accepting the advice given;

(iii) the Commissioner is a body corporate. All the powers of the President and councillors as specified in the Municipal Ordinance are vested in and exercised by the Commissioner;

(iv) the Advisory Board, excluding the Commissioner, is made up of 11 Members, six of whom are Officials and five Unofficials. All the Members are appointed by His Majesty the Yang di-Pertuan Agong;

(v) as regards the Commissioner, any person may be appointed for this post by His Majesty the Yang di-Pertuan Agong. The Federal Capital Act, 1960, does not say that the Commissioner should be a civil servant. But so far only serving and senior civil servants have been appointed to fill this post;

(vi) the Commissioner not only has to formulate and decide on policies, which in other elected Municipalities would be a matter for the full Council (i.e. elected councillors), but also as the Executive Officer he is responsible for the execution of the policy decisions. Where, however, a policy is formulated by the Minister for Local Government and Housing, the Commissioner merely executes it;

(vii) the Commissioner also discharges the ceremonial functions akin to those of a Mayor, as for instance in receiving a foreign dignitary;

(viii) the Minister responsible for Local Government is responsible for and answerable to Parliament on any matters connected with the Federal Capital. The Parliament is the forum for the ventilation of views and grievances on the administration of the Federal Capital. As the Minister for Local Government is responsible to Parliament on all matters relating to the Federal Capital, the Commissioner for the Federal Capital is answerable to the Minister with regard to implementation of policy;

(ix) the Federal Capital Act, 1960, also empowers the Minister from time to time to give the Commissioner directions of a general character on the policy to be followed in the exercise of the powers conferred and duties imposed on the Commissioner on matters which appear to him to affect the interests of the Municipality and the Commissioner is bound to act on all such directions;

(x) the proceedings of the Advisory Board are not open to the public or to the Press but a report of the proceedings of any particular meeting, except on confidential matters, is made available to the Press at a Press Conference which is held by the Commissioner every month. The Press can ask any question arising out of the report and the Commissioner is fairly free to answer these questions;

(xi) the Federal Capital Act also requires the Commissioner to submit a report of the activities of the Kuala Lumpur Municipality once a year to the Minister who in turn has the report tabled in Parliament;

(xii) the Municipality of Kuala Lumpur is financially autonomous with power to utilise its revenue as it deems fit.

521. What most of the State Governments meant when they said that their State Capitals should be taken over by the State Governments as the Federal Capital had been taken over by the Federal Government was that the State Capital should be administered similar to the Federal Capital as aforestated.

522. The following arguments were generally made in favour of the Advisory Board system of Kuala Lumpur:

(i) the system in the Federal Capital has brought about complete harmony between the Federal Government and the Municipality of the Federal Capital. This was only possible by the abolition of an elective Council and substituting therefor a nominative Board. This transformation has effectively introduced a climate of deliberations based on the merits of matters. On the other hand it has eliminated irresponsible and irrelevant electoral promises, party bias in deliberations and decisions in Council, opposition for opposition's sake with little or no regard for the interests of the ratepayers, and other inherent psychological phenomena, e.g. political antics normally associated with party politics in an elected Council;

(ii) if the Federal Government can administer the Federal Capital with a Commissioner and with a nominated Advisory Board, why not the State Governments do the same for their State Capitals? If embarrassments, irritations, frictions and conflicts had to be avoided in the Federal Capital by doing away with an elective Council, why not the same privilege be accorded to the State Capital?;

(iii) after all, the State Capitals are the seats of the State Governments and in many cases the places where the State Rulers reside and where often foreign dignitaries visit. Is it not therefore proper and fair that like the Federal Capital the State Capitals should also be kept above local political rivalries that may embarrass the State Governments?;

(iv) by a process of nomination the Federal Government is in a position to select suitable persons to the Board. Without fear or favour of party politics or of the electorate, such nominated members are in a position to discharge their duties fairly and impartially. An elected member is not as free as he makes out to be. He is often a victim of the party caucus. He is unable to be free from party bias and prejudice;

(v) Kuala Lumpur is progressing smoothly and efficiently with a Commissioner assisted by an Advisory Board, and likewise the State Capitals too can smoothly progress if they are administered similarly;

(vi) if elective Councils are allowed to carry on in the State Capitals it is possible that in a State the State Government will be in the hands of one party and the State Capital will be in the hands of another. Even with all the best will in the world to co-operate there would be occasions when party motivation and bias would assert themselves generating conflicts between the State Government and the local authority in a State Capital leading to the lack or absence of co-operation to the detriment of the ratepayers.

523. As instances of political frictions and conflicts, evidence was given as to what happened in the City Council of George Town on two occasions. In 1960, when the State Government of Penang celebrated the end of Emergency as the rest of the country did, the City Council of George Town refused to join in the celebrations. It even refused to decorate the town and to raise the National Flag to mark the celebrations. At that time the Council was controlled by the Socialist Front whereas the State Government was controlled by the Alliance Party. The State Government felt that it had no power to do anything apart from dissolving the City Council which would have been too drastic a measure. Wisened by the event, the State Government amended the Municipal Ordinance to empower the State Authority to require the Council to take such action as is necessary in respect of an event of national importance or of special significance to the State. Hence when in 1963, the City Council still under the control of the Socialist Front refused to celebrate Malaysia Day the State Government through the State Secretary exercised the powers of the Council to celebrate the occasion.

524. The arguments against the introduction of the Advisory Board system of the Federal Capital in the State Capitals were equally if not more candid. The following summarise the views in opposition to the Advisory Board system in the State Capitals:

(i) simply because the Federal Capital has been put under an Advisory Board system, it does not *ipso facto* hold good for all the State Capitals to do the same. Though there might be some justification in the case of the Federal Capital and especially in view of its "special position" which had been recognised by the Reid Constitutional Commission there is no corresponding justification in extending the nominated Advisory Board system to all the State Capitals at the expense of democracy. This would be putting the clock back. The citizens of a State Capital pay rates and they must have representation by popular franchise;

(ii) in the State Capitals people are generally sophisticated and politically conscious. Naturally they would like to have a say in the affairs of their capital towns. How can this be effectively achieved unless through popular elections? Nominated advisers cannot effectively voice the interests of the ratepayers because they are not answerable to them. Nomination is no real substitute for elective representation. If anything, nomination is an anachronism and a relic of colonialism. It is antithetic to democracy. Nomination is supported on the illusion that it makes way for suitable people to be appointed. But in practice it does not ensure that. Even if there were legal provisions governing the principle of nomination it is common knowledge that the Government of the day usually favours and appoints its own party members or supporters and not always the best persons available. The legal provisions are often conveniently circumvented by the appointing authority. Nomination therefore is a much abused system. In any event, it has exhausted itself and in the new era of Merdeka, it should have no place in the field of local government;

(iii) local government, whether at the State Capital or anywhere else, is the kindergarten of democracy. It is the Government that is nearest to the people. Grass-root democracy is cultivated here. If democracy is understood by the people at this level and if they participate in its exercise they will understand it better at the State and Central levels. After all, why is the nation in a great hurry? Democracy cannot be learnt over-night. It is in fact a continuing process of

learning. In other countries it has taken hundreds of years to take root in the minds and hearts of people. If frictions arise between the State Governments and the local authorities in the State Capitals or if there are areas of conflicts, they must and can be corrected either by legislative or administrative improvements. These by themselves are no justifications to liquidate democracy;

(iv) to replace the electoral system with a nominative system on the ground that a State Capital is a place of prestige is meaningless. A prestigious place can co-exist with local democracy. Democracy is too important a value to be sacrificed for the sake of visits of foreign dignitaries to State Capitals.

525. As we had indicated earlier, the State Governments generally and a number of ratepayers throughout the country supported the Kuala Lumpur pattern for the State Capitals.

526. We could not but observe that the Kuala Lumpur pattern was on the whole uncritically accepted and very often for the reason that it had eliminated elective representation and removed the presence of party politics within the deliberations of the Municipality.

527. Political representation was too much of a pain in the neck to many witnesses. To them, such a representation was not a dynamic force but rather a dissipating, distracting and often irrelevant force standing in the way of smooth and efficient administration.

528. Although the Kuala Lumpur system does not fall within the ambit of our enquiry, since so much has been said about it and the virtues of its system it would not be out of place for us to make some general observations thereon.

529. Kuala Lumpur is the Federal Capital and its "special position" had been recognised by the framers of the nation's Constitution. Paragraph 118 of the Report of the Federation of Malaya Constitutional Commission states:

> "We think, however, that the Federal Capital, Kuala Lumpur, is in a special position. We do not think it practicable to make Kuala Lumpur federal territory and we have received no representation that this should be done. But we think that the Federation ought to be able to control the development and administration of its capital and seat of government. We therefore recommend that the Federation and not the State of Selangor should have power to legislate with regard to the local government and town planning of Kuala Lumpur and that for administration the Municipality should be directly under the Federation."

530. In pursuance of the above recommendation Article 154 of the Constitution of Malaysia provides that until Parliament otherwise determines, the Municipality of Kuala Lumpur shall be the Federal Capital and that Parliament shall have exclusive power to make laws with respect to the boundaries of the Federal Capital. It is to be observed however that there is a provision in Section 15 (ii) of the Federal Capital Act, 1960 which appears to be inconsistent with Article 154 (ii) of the Malaysia Constitution.

531. Neither the Constitutional Commission's Report nor the Constitution itself spells out how the Municipality of Kuala Lumpur should be constituted. This is to be found only in the Federal Capital Act, 1960 passed by the Parliament.

532. The constitution and administration of the Federal Capital is not unique to our country. On somewhat similar principles are administered the cities of Washington D.C. and Canberra. The principle therefore of keeping the Federal Capital above political representation has been recognised internationally, though not widely.

533. Though this system undoubtedly has its advantages, it is not consonant with the principles of democracy in its constitution, representation and participation. Looked at from this angle the defects of the system do not escape notice.

534. For instance, let us take the question of sensitivity and response to popular opinion. In an elected Municipality, the Mayor or the President cannot afford to be insensitive to the wishes of the ratepayers. If he is, then he would destroy his chances of re-election. But in the case of the Commissioner, as now appointed for the Federal Capital, he is not answerable to the ratepayers. So, he is not obligated to be as sensitive as an elected Mayor or President, though to be a successful Commissioner he cannot totally ignore the wishes of the ratepayers.

535. If, however, the Commissioner chooses not to be sensitive to the wishes of the ratepayers he can very well do so and the ratepayers have no recourse to call him to account for his actions apart from ventilating their criticisms in the Parliament.

536. Again, the powers of the Commissioner are wide and could be abused if placed in the hands of a wrong person. Hence, the success of the Commissioner system depends largely on the personality, dynamism and flexibility of the Commissioner. Of equal importance is the personality of the Minister for Local Government. Although the Federal Capital Act, 1960 clearly states that the Commissioner is responsible for the day-to-day administration of the Federal Capital and has power to decide by himself on many matters, these functions can easily be undermined by a Minister who would like to have his own ways. In the absence of built-in safeguards in the law, the Minister can very well take advantage of the fact that the Commissioner is a civil servant and direct that the Commissioner should refer to him even routine administrative matters and also direct the Commissioner to make a decision on a subject which the Commissioner on his own would be most reluctant to make. On the other hand, if the Commissioner is not a civil servant and therefore not so amenable to accepting directions from the Minister on subjects which are clearly under his purview, an untenable situation can arise.

537. Further, of the 11 Members, six are Official Members who are Secretaries to the various Ministries. Though their designations are expressly specified in the law in order to qualify them to attend and to participate in the proceedings of the Advisory Board, they do not always personally attend and often send very junior officers to attend the meetings of the Advisory Board. As a result, in most cases the Government officers are unwilling or unable to give definite decisions on any matter raised at the meetings of the Advisory Board resulting in inordinate delays to resolve matters.

538. Though matters of the Federal Capital can be raised in the Parliament it is inadequately done and even Members of the Parliament who live in the Federal Capital or who represent constituencies in and around the Federal Capital seldom raise questions in the Parliament on matters effecting the Federal Capital. Parliament therefore has so far been only of academic importance and relevance in so far as airing the views of the ratepayers in the Federal Capital.

539. Though very few national capitals in the world have been and are being administered on similar principles as those of the Federal Capital, we have not come across any instance of a State or Provincial Capital being similarly administered in countries where democracy is practised. Of course, where there is no democracy, the question does not arise. We therefore are of the view that the State Capitals should not be equated with the Federal Capital on the question of doing away with elective representation.

540. In the light of the foregoing, we consider that the nominated Advisory Board system of the Federal Capital would not be a desirable substitute for the State Capitals. For some years now, the State Capitals have been progressing along the road of decentralised responsibilities. All of them have attained financial autonomy. They have also acquired full or if not almost full elective representation. The ratepayers have had their participation through elections. Their voices have been echoed by elected representatives.

541. If projection of politics in the elected Councils had caused inter-governmental frictions or embarrassments or ill-will between the State Government and the local authorities in the State Capitals suitable remedies will have to be found and built into the laws to avoid their recurrence. The remedy does not lie in eliminating the elective representation and replacing it with a nominative one. This would be a reversal of the order of progress. It would be indefensible on many counts.

542. It cannot be denied that the absence of elected political representation has enabled the Advisory Board of the Federal Capital to work quietly, efficiently and without political conflicts. But it cannot be stated with any degree of certainty that the presence of elected political representation would have stood in the way of progress and the efficient functioning of the Municipality. In other words nomination cannot always be equated with efficiency as election could not always be equated with inefficiency. Both have their merits and demerits. But weighing both the processes in a dispassionate manner we cannot but take cognizance of the fact that the merits of the elective process with all its inherent and attendant weaknesses, outweigh those of the nominative process. In the long run a healthy, vibrant participation of the citizens at all levels of public administration is more desirable, both as an objective and as a process, than the immediate short-range objective of efficiency. Efficiency, though highly desirable in itself, should be made an indivisible part of a democratic process rather than be divorced from it. Democracy with efficiency is always more desirable and better than efficiency without democracy. In the journey towards attaining an efficient democracy, we should not allow the difficult terrain of the journey to discourage or divert us from striving to reach the goal.

543. We are of the view that the nominative Advisory system of the Federal Capital is unsuitable to the State Capitals and therefore recommend that the State Capitals should have local authorities with elective representations as hereinafter provided.

544. It is to be noted that the Advisory Board system of the Federal Capital was not merely recommended by most State Governments where different political parties are in control of the State Government and the local authority in the State Capital, but also where the same political party is in control of both the authorities. It was therefore manifestly clear that the Advisory Board system was preferred for its own sake and not because an opposition party was in control of the State Capital. The overriding consideration in support of the Advisory Board system appeared to arise from the fact that it totally precluded elective representation. It was also advocated on the belief that

such exclusion of elective representation would totally avoid inter-governmental conflicts, whether the State Governments and the local authority in State Capitals are in the control of the same or different political parties.

545. On the whole, only a few specific instances of conflict between the State Governments and the local authority in the State Capitals were presented to us throughout the country. The two specific instances of conflict that arose between the Penang State Government and the City Council on the occasion when the End of Emergency and Malaysia Day were celebrated had already been mentioned earlier (*see* paragraph 523). The State Government of Penang had effectively handled the situation by empowering itself to engage the City Council in the celebrations and to utilise the Council's fund for these purposes. The fact that the State Government could do this clearly indicates that the power was there for the State Governments to invoke and to avert the kind of embarrassing situations that arose. Therefore, conflicts of this nature are curable with relative ease, and they are not so grave as to advocate the adoption of the Federal Capital system in place of the elective representation.

546. To avoid future occurrences of this nature, it is desirable to have legal provisions making it obligatory on the part of the local governments to comply with directions given by the Central and State Governments on matters of national or state importance. After all a local authority is subordinate to a State Government and it is only proper that a local authority should comply with the directions issued on matters of national or state importance.

547. We are of the view that the future laws of the local authorities in the country should have express provisions making it obligatory on the part of local authorities to comply with directions issued by the State Authority in the national or the State interests.

Maintenance of Status Quo

548. We have so far disposed of propositions (*a*) and (*b*). To put succinctly by way of recapitulation, proposition (*a*) asked for abolition and integration like Singapore. Proposition (*b*) called for retention of the Kuala Lumpur model. On the other hand proposition (*c*) is a compromise between the two. It is half way between two polemics. It advocates the preservation of the existing system with modifications in the light of experience gained.

549. Those who supported proposition (*c*) gave the following reasons:

(i) the local authorities in State Capitals have not done too badly considering the fact that they only became elective bodies gradually after 1950. This is too short a period to pass judgment on the elective system;

(ii) this does not mean to state that they were not without faults in their transformation or growth. These are to be expected;

(iii) the remedy lies in improving the system as we go along and not in radically reverting it from one end to the other;

(iv) as for faults or inefficiencies or financial difficulties even the State and the Central Governments are not free from these. No one could even dream of suggesting that the present forms of these Governments should be scrapped and

reconstituted on the old colonial patterns because the latter were comparatively smooth and efficient and were free from political pressures or pulls;

(v) if the elective system has faltered in the State Capitals and elsewhere it is largely due to the inadequacy of our present laws. Adequate supervisory provisions have been lacking. And what such provisions there are no administrative teeth had been put into them. On the whole the State Governments have been half-hearted in applying whatever supervisory roles they have had. Not because they lacked administrative machinery to do so but because local government was nearly in all cases at the very bottom in their lists of priorities;

(vi) if only there had been more inspection and supervision of the local authorities either by the State Government or the Central Government, many of the problems that had arisen could have been averted;

(vii) further there should be built-in legal provisions providing checks and balances. The present laws are inadequate in providing self-executing checks and balances. If these are introduced many abuses can be avoided and the elective system can be allowed to carry on.

550. In the light of the above, proposition (*c*) appeared to us to be most logical and practical. We are not impressed by the argument that the system has corroded beyond repair. On the other hand we are not oblivious to some of the defects that are manifestly there.

551. We do realise that at the time we write this Report, 4 out of the 10 State Capitals had been taken over by the respective State Governments. The City Council of George Town and the Town Councils of Seremban and Johore Bahru had been taken over on the alleged grounds of maladministration and malpractices. The Municipality of Malacca was taken over on the ground that the Municipality was unable for financial reasons to continue to discharge its functions and duties effectively.

552. The findings of the Commissions of Enquiry established for the Town Council of Seremban and the City Council of George Town have already been made public. Mr Justice Lee Hun Hoe who was in charge of the Enquiry into the Seremban Town Council has made specific findings of maladministration and malpractices on the part of the Seremban Town Council and certain councillors of the Council respectively. In the case of the Enquiry into the affairs of the City Council of George Town held under the Chairmanship of Dato' Justice Abdul Aziz bin Mohd. Zain, no specific finding of maladministration or malpractice was found though the Commission's Report records its dissatisfaction and criticisms on a number of matters.

553. The two Reports in respect of the City Council of George Town and the Seremban Town Council gave some insight into the administrative systems of a full-fledged Municipality and a Town Council and as to what extent they are susceptible to malpractices and maladministration.

554. We are of the view that the facts involved in the said Enquiries were of a nature that could be contained by adequate legal provisions and effective administration. They do not justify the abolition of local authorities in the State Capitals. Nor would the introduction of the Kuala Lumpur model be a suitable substitute. So long as there is a public administration of any kind the sort of complaints that arose in Seremban or George Town are likely to arise. This is a fact that we have to face. All that we can

do, and indeed we ought to do, is to take prudent steps to ensure that malpractices or maladministration do not arise. Even so there would still be some degree of maladministration or malpractices rearing their heads from time to time and posing challenging problems. They cannot be totally avoided even with the most stringent legal provisions and measures. After all there is no frontier to perfection and so long as human institutions are imperfect, there will be deficiency gaps that will have to be filled.

555. Viewed from this reality the problem would present itself in a proper perspective. Whether or not a local authority has an elective representation it will still be vulnerable to malpractice or maladministration. Especially so where the authority is a decentralised body corporate with financial autonomy. Here the degree of freedom is wider. Freedom is a useful servant, but a difficult master. Often it is an unruly horse. It is not easy to manage when it is not chastised and tempered by sound convention, balanced tradition, articulate public opinion or effective legal provisions. It must be made subject to built-in checks and balances.

556. It would not be fair to generalise that all State Capitals have been mismanaged. Time and again, Ipoh Municipality was singled out to us in different parts of the country as an excellent example of efficient administration. Even the Perak State Government officials said that their relationship with the Municipality was cordial despite the fact that Ipoh Municipality is under the control of the Peoples Progressive Party and the State Government is under the control of the Alliance Party. Two different political parties in control of two different governmental units have co-existed generally in a spirit of harmony, though we were told of few instances of minor frictions. But these are not important enough either to be narrated here or to be commented upon. What is important to be recorded here is that with the correct mutual appreciation of each others' roles, powers and duties two unequal authorities under two different political parties can function side by side with understanding and goodwill. The credit must go to both the Perak State Government and the Municipality of Ipoh.

557. Taking all arguments into consideration it is our view that the State Capitals should be allowed to continue as decentralised units with financial autonomy and with popular representation. We think that all these should be accompanied by some modifications so as to provide optimum efficiency consistent with democratic ideals.

558. One of the major phenomena is the fast tempo of developments in and around State Capitals generally. These developments have resulted in the continuous expansion of the areas of most State Capitals and will continue to do so hereafter. The earlier boundaries of the State Capitals have therefore become increasingly obsolete in a number of cases. Extensions of boundaries have become difficult problems of adjustment and accommodation between the State Government and local authorities. Realism has been ignored and commonsense and rationality have been defied in seeking consensus to redraw the boundaries. To avoid all these we have come to the view that the local authority at the State Capital should cover and serve the existing administrative district where the State Capital is situate and that our recommendations in regard to the District Councils should also apply to the District of the State Capital.

559. We therefore recommended that:

(i) every State Capital in West Malaysia should be administered by a local authority;

(ii) it should have elective representation, which principle should also be extended to all local authorities outside the State Capitals;

(iii) it should be vested with financially autonomy;

(iv) it should be subject to the directives issued by the State Governments on matters of national or state importance and interests and this should be expressly provided in the law;

(v) its area of administration should coincide with the administrative district in which it is situate and should be governed by the recommendations made in the following chapters in regard to local authorities for the future.

CHAPTER VIII

ELECTIVE REPRESENTATION

560. Having disposed of the State Capitals this would be the appropriate moment to consider the general criticisms about the various categories of local authorities in the country. No government is free from criticism. No government is beyond improvement. Imperfections there will be in all human creations. Criticisms should therefore be constructive. It is not enough to highlight the imperfections alone. They must be followed by suggestions to improve a system or an alternative must be suggested. We found during our enquiry both the criticisms and the remedies thereto, if any, lacked depth and substance. It is easy to say that death is a solution to life. But it is difficult to suggest ways and means to improve the life. During our enquiry there were those who advocated the demise of local government itself as a solution to its problems on the ground that there were too many governments and too much of democracy. We are unable to subscribe to this negative view. If it is followed by something positive we may evaluate it. But as it is, it does not merit our consideration. There were others who suggested the replacement of the elective system by a nominative system. The merit and demerits of this proposal have been elaborately considered in dealing with the State Capitals and we have already recommended that the principle of elective representation should be extended to local authorities outside the State Capitals as well. There is therefore no necessity to repeat the arguments for and against elective representation here. What we have said about the nominated system for the State Capitals is equally applicable in regard to all local authorities. Several other criticisms, however, were made throughout the country touching on political, administrative, financial and service matters. At this stage we will concern ourselves with political matters and treat the rest under their relevant Chapters.

PARTY POLITICS

561. Political criticisms were by far the most vocal. Some strands of these have already been dealt with in considering the State Capitals. We will now consider other specific aspects.

562. There were views generally expressed that party politics should be precluded from local government. Put differently candidates should be barred from standing on party platforms. They should stand as individuals without representing any party and displaying any party symbols. This was recommended on the grounds, *inter alia*, that:

(i) it will create better relationship between the State Government and the local authorities and thus remove or reduce areas of conflicts between them to the benefit of the ratepayers;

(ii) the State Government will be in a better position to act impartially towards local authorities which are free from political control. Otherwise, it might be inclined to show favours to a local authority controlled by the same party which controls the State Government;

(iii) the affairs of a council controlled by party politics will not be discussed and resolved on their merits and in the interest of the ratepayers as a whole;

(iv) party politics will create political factions within the council of a local authority and there will be opposition for opposition's sake even against good proposals from a political opponent. This will result in the loss of benefit to the ratepayers;

(v) local government affairs are parochial and service-oriented. There is no socialist or capitalist way of cleaning a street! A local governmnent's role is not legislative; it is largely deliberative. It has very few policies to make. As such, politics is not a suitable tool in a local government;

(vi) in a faction-ridden council, favours may be shown to the ratepayers of wards that have elected the majority and the opposition wards may be deliberately disregarded or neglected. Furthermore favours may be shown to active party members and supporters;

(vii) party elections do not ensure the return of good and suitable persons as councillors. Candidates are usually fielded not because they would made good councillors but more because they are good party men and they can win the election. This affects the calibre of councillors and the quality of their decisions;

(viii) party politics has unnecessarily divided the citizens and created bad blood between them and has upset the social equilibrium in small places;

(ix) because of party politics candidates standing on party tickets often have excursions into irrelevancies during election campaigns. They speak on foreign affairs, language, religion, national and state politics and even promise to attend to these if they are elected. They know or ought to know that these matters do not come within their purview. Yet, they indulge in these matters with heated passion to draw support. This in short is a political fraud on the electorate.. Candidates speak little about local affairs since these matters lack the glamour and controversies of national issues.

563. As against these criticisms it was stated that:

(i) party politics has come to stay and it cannot be suitably substituted;

(ii) without party politics there will be very little enthusiasm among the citizens and they will become apathetic and indifferent to local affairs in the absence of organised party projections;

(iii) party politics formulates policies on a group basis and it facilitates voters to join one or the other group. In other words, parties think for the voters and enable them to make up their minds;

(iv) very few individuals will come forward to stand as candidates on their own without party support, both human and material;

(v) non-party election will create a council of men with too variegated individual views and each is likely to go his own way without seeking a common consensus;

(vi) party politics will create and channel loyalty and discipline between ordinary members and also councillors *inter se* in the council. It facilitates a party member to complain to his party and bring to book a councillor of his party who neglects his duty or who works against public opinion and interests;

(vii) a non-party councillor being unfettered by party discipline does not regard himself answerable to the electorate to the extent that a party councillor does. He might not be quite as sensitive to public opinion as a party councillor would;

(viii) not all the w of a local government are administrative. There are matters of policy too on which a council will have to decide. Party politics may offer scope for healthy differences and postures on matters of policy;

(ix) local government will provide the operational base to political parties to organise and function at the ground level and to gain experience in administrative and political discipline which is a vital necessity for healthy political growth.

564. We have generally summarised the views for and against party politics in local government. We gave due consideration to all shades of views. We were told in Kelantan that party politics in one Local Council had divided the normally friendly and peaceful people of a small kampong into two hostile groups and placed them on non-talking terms. Despite this we heard strong views in Kelantan that party politics now run in the blood of the people and it could not be removed and replaced by non-party politics even in local government.

565. In Batu Gajah, Perak, we heard another bizarre story which shows to what low depth party politics can sink and give rise to base and mean acts. We were told that a Local Council in a nearby village deliberately caused nightsoil to be dumped before the house of a political opponent simply because of political differences. The person in front of whose house the nightsoil was dumped every night said he could not sleep because of the smell and also said that he had refused to pay the local rates because the local councillors themselves had not paid their rates and as such they had no right to collect them from him.

566. These are extreme and isolated instances. We did not hear similar stories elsewhere though we could see in some places pronounced party differences. On the whole, however, there was a good degree of political tolerance throughout the country.

567. We could see the strong argument in favour of non-party politics in local government. In fact, in the first few years since elections were introduced in 1950 they were held on a non-party basis in Local Councils. Each candidate had to have his own election symbol and not his party's. Eventually parties were allowed to field their own candidates.

568. Has party politics come to stay? It appeared to us that it has taken a firm root. It was argued that even if political parties were precluded they would still lurk behind individual candidates. It would be very difficult to shut out their influence. There could be any number of devious relationship between an ostensible individual candidate and a political party. A party would still be in a position to help him with manpower and material support. These cannot be effectively avoided. So, it was asked, why not face the reality and let party politics operate in the open? There is no doubt much force in this argument.

569. It must be remembered that party politics is not an essential prerequisite for franchise to be exercised. Early this century the innovation of non-party election came into vogue on grounds of "efficiency and economy". The idea was grounded in the theory that local governments were really corporations rather than political bodies and that the questions in local government were administrative rather than political in nature. It was therefore argued that the local councillors should be more like corporation directors and businessmen than politicians. To recruit such candidates it seemed essential that party symbols had to be done away with and that candidates had to

stand or fall on their own merits. Looking at it from a theoretical basis there appeared to be adequate justification for non-party system. In fact, in some democratic countries party politics has been precluded from local politics on this rationale. United States is a case in point. Until recently non-partisan elections were widely accepted in that country. Doubts, however, have been cast on the non-partisan nature of non-partisan elections. Charles R. Adrian concluded that such elections do serve to weaken political parties at the local level. He also advanced the following propositions concerning non-partisan election:*

(i) non-partisan elections tend to segregate political leaders into strictly partisan or non-partisan paths as a general rule;

(ii) they encourage the avoidance of issues of policy in local campaigns;

(iii) candidates prefer to take an ambiguous or no stand on issues to avoid the possible loss of potential electoral support;

(iv) they tend to frustrate protest voting since there are no identifiable "in" and "out" groups;

(v) they tend to advance conservatism by the re-election of office holders;

(vi) there is no collective responsibility in a non-partisan body since the members are elected as individuals and not from a slate of nominees.

570. Let us approach the question differently. What are the major political functions of political parties? Clinton Rossiter catalogues them as follows:†

(i) control and direct the struggle for power as openly as possible;

(ii) serve as personnel agencies by setting up and operating the machinery that places men and women in public office;

(iii) serve as important sources of public policy by converting hopes and frustrations into proposals for action by the voters;

(iv) organise the legislative and executive branches of government if they are the majority party and run these branches with the aid of the appeals and disciplines of party loyalty;

(v) make concrete promises to the electorate and follow through on them if elected;

(vi) serve as the "loyal opposition" if unsuccessful in the last election.

571. In addition to the political functions above, Clinton Rossiter enumerates certain social and psychological functions. The social functions are: (*a*) to instruct citizens in the practice of democracy and keep them informed on current issues; (*b*) to serve as buffers and adjusters between individuals and society; (*c*) to dispense legitimate aids, favours and commitments to persons in need. The psychological function is to serve as an institution to which citizens can extend their allegiance and feel in return some sense of belonging.

* Charles R. Adrian "Some General Characteristics of Non-Partisan Elections", American Political Science Review Vol. 46, pp. 766-776.

† Clinton Rossiter. Parties and Politics in America, Cornell University Press 1960, pp. 39-47.

572. We have considered the merits and demerits of elections on party and on non-party basis. We are of the view that despite the inherent defects of election on party basis they should be allowed to survive and continue for cogent reasons. Political tolerance is a great asset in any society. It is more so in a society with plural communities. Where there are plural communities loyalties, affinities, pride and prejudices follow separate ethnic, cultural, social and religious streams. In such a context organised group politics often operates as a synthesising factor. It transcends various barriers and causes a fusion of political loyalties and affinities on a secular basis. Such a fusion is one of the basic columns that support the structure of a nation. People of different races must learn how to coalesce in local matters, just as they do in regional and national matters.

573. Where nation-building is not one of the main objectives of decentralisation it might not matter very much whether the elections are held on party or non-party basis. Even in such countries party basis is gaining ground except in small towns and rural areas. In England this is so. Two-thirds of all the local councillors in England are members of political organisations and are elected on party basis. Their proportion, however, varies from county boroughs to the rural districts. In county boroughs and former metropolitan boroughs nearly all councillors can be described as "party political". In the rural districts, on the other hand, over 70% of the councillors describe themselves to be "independent" or not attached to any political group. In India, political parties are not precluded from fielding candidates in local government elections.

574. Party politics no doubt results in majority rule with the minority accepting it. No modern society can be unanimously managed. Most public problems are complex and few are absolute in their values. In some African countries the doctrine of unanimity has been advocated as a technique of political management. These countries have attached the doctrine of majority rule as being Western and foreign to the consensual concept of African societies. They say this doctrine tends to divide their people. They have preferred instead one-party rule. Within the party they advocate the process of persuasion and consensus. In effect, this is not different from Hegelian dialectic triad: thesis, antithesis and synthesis. Hegel believed that in every problem a synthesis could be reached. He did not believe in the democratic concept of agreeing to disagree. Some of the African thoughts and the thought of Sukarno when he advocated the doctrine of unanimity through the technique of "mushawarah" are akin to the Hegelian concept. Neither one-party rule nor the doctrine of unanimity is commendable or desirable in Malaysia.

575. The essence of party politics is agreeing to disagree. The majority and minority may disagree. But they agree to co-exist with their disagreement. Inherently, this calls for tolerance. Democracy tries to build a tolerant and accommodative society. We are not saying for one moment that the majority is always right. Far from it. Easily there can be the tyranny of the majority. But still, if the process is through democracy, there is no other working formula to co-exist. Party politics produces public opinion, marshals support, agrees where it can or will, disagrees where it cannot or will not. All this tends to build the basis for grass-root democracy from which must spring the belief in democracy.

576. We therefore recommend that party politics should be allowed to continue despite its good and bad aspects and those who wish to stress their faith in non-conformism should have the right to stand as "independent" as in the past.

POLITICAL CAMPAIGNS

577. It was suggested to us that political candidates should not be allowed to speak on national and state matters during the election campaigns in local authorities. This was stated on the ground that such tactics were dishonest and would even be a fraud on the electorate. That is to say that candidates were trying to gather support by speaking on issues over which they have no say or control. What can be done about this? Should we or can we restrain this?

578. Freedom of speech and expression is a fundamental right enshrined in the Malaysian Constitution. This freedom like any other freedom is not absolute. The Constitution rightly imposes restrictions upon this freedom. It would seem that the restrictions do not include irrelevant statements made by a candidate in a local government election. So long as it does not offend against the constitutional restrictions a candidate is entitled to speak on national or state matters at a local government election. This is his constitutional right and no one can question it.

579. But is it desirable that a candidate should speak on matters over which he has no control? This is a different question. It would seem that trying to cash in on local support by exploiting the differences on national issues may not be the honest way of playing the game.

580. We are of the view that the Election Commission should have a "code of conduct" during the elections for all candidates to observe. This should operate as a gentlemen's agreement. One of the requirements of the code should be that candidates and speakers on their behalf in local government elections should refrain from speaking on issues other than those pertaining to local government. In this context, the State and Central Governments could, of course, be subjected to criticisms and comments so long as they are relevant to local government. This is a matter of discipline that should be developed by mutual respect for fair-play. Any further constitutional restrictions against freedom of speech would be undesirable and unhealthy. A society must be built more by self restraint and discipline than by repressive laws which will not receive the respect of the people or will not be easy to enforce.

ELECTORAL BASIS

581. Opinions were expressed about reforming the basis of representation in local government. At present elections are held on ward basis. That is to say, a local authority is divided into a given number of territorial wards. A candidate is required to stand on behalf of a ward of his choice. No one candidate can stand in more than one ward. When he is elected he represents the ward in the council. This means, the basis of his representation is territorial. It was suggested that this might be replaced by election at-large. In other words, a candidate has to stand on behalf of the entire people of the local government area and not on behalf of any particular ward of the area. In this case a successful candidate represents the people of the area as a whole. By this process ward-consciousness and dichotomy of territorial interests within a council will be avoided.

582. Election at-large is being practised in a number of countries, especially in the United States and Canada. In the United States, 38% of the mayor-council cities elected their councilmen at-large in 1955. Almost all the commissioned local governments elected their councilmen at-large on the principle that they are supposed to represent the entire

city. About 75% of the council-manager cities too resort to this method of representation. A sizable minority of mayor-council and council-manager municipalities have a combined system of ward and at-large representations. A small number nominate their councilmen by wards and elect them at-large.

583. Though election at-large has its merits, election on ward basis is not without its advantages. The ward election is simple and direct. A candidate has to stand in a relatively small area and as such the elector-councillor relationship is better established with greater acquaintance and contact. This method also ensures adequate representation to a minority group that may live in a large number in a particular ward.

584. Having considered both the systems we are of the view that election at-large may be suitable in a compact small town or a village with one homogeneous community. Where, however, the local authority is large in area or where plural communities live in defined areas with majority and minority strength, the existing system of ward election would be more conducive and would ensure balanced representation.

585. We therefore recommend that the present system of election on the basis of ward should continue to provide representation to local government as in the past.

CHARACTER OF REPRESENTATION

586. When a candidate is elected as a councillor whom does he represent? His party, his ward or the entire citizenry in a local authority area? Is he a representative or a delegate? Does he have to work on the mandate of his party or the electorate or on his good sense of judgment? These are important questions. They touch upon various attitudinal phenomena of inter-related parties. A clear understanding of these is important for the proper running of a council.

587. It was suggested to us that when a partisan councillor chooses to quit his party and crosses the council floor either to join another party in the council or to be an independent there should be a law compelling him to resign from his council seat. This was argued on the ground that a party candiate is elected because of his party platform. It is the party that introduced him to the electorate. He represents the party manifesto and wins on its strength. After election he sits in the council as a party member. Morally the seat belongs to the party. Therefore if he leaves the party he should not have the legal right to retain it since morally he would have forfeited that right. Hence the morality of his obligation should be given legal sanction. This was the line of reasoning given in support of the argument that he should resign if he quits his party.

588. The argument has an overtone of undue presumptions. It presumes that a party has more rights than the electorate. Secondly, it presumes that a party should take the exclusive credit for the success of its candidate. It suffers from the fallacy that a council seat of a successful candidate belongs to the party and not to the electorate.

589. It may be true that a candidate wins because of his party. It may be equally true that despite his party a candidate may win largely because of his personal ability, image and appeal. It is not easy to draw a line between these two in all cases. It is, however, more than obvious that a council seat is expressly allocated for the representative of an electoral ward and not for a party. The incumbent of a seat may or may not

be a member of a party. This is purely incidental. There is no precondition that he should be a member of a party. The fact that he is a member of a party does not *ipso facto* give him a vicarious right to his party to claim a right over his seat.

590. Clearly a councillor is not a representative of his party in a council. He may, however, have been elected on his party platform and support. Therefore whom should he represent--his party or his electoral ward in the council? If there is a conflict between the two where does his primary loyalty lie? Again is he strictly to represent the interests of his electorate or the entire citizenry? What should he do if there is a conflict between the two? It is in trying to reconcile between these claimants of his loyalty that a councillor may flounder.

591. These questions may appear to be academic. But they are not devoid of practical significance. It is common knowledge that a partisan councillor normally toes or is required to toe his party line. He regards his party's assessment of public matters as the correct reflector of public interests. Whether or not he agrees with it he is often required to follow it. If he consistently disregards it his party may disown him or he may leave the party. But his being or not being a member of a party is not relevant to his right over the seat in a council.

592. At this stage it would not be out of place to get the correct historical perspective of his role in a council or a legislature. Whether it is a local council or a national legislature it can be seen from the following that the principle is the same. Formerly an elected person was regarded as a representative. Once elected he was expected to serve the interests of the entire people. He was not treated as a delegate with a particular mandate. This earlier theory of elective representation was embodied in the French Constitution of September 1791. Section 3 of the French Constitution provided that: "the representatives chosen in the departments shall not be representatives of a particular department, but of the entire nation, and no one may give them any instructions (mandate)". This theory of representation was subsequently written into most constitutions of other countries.

593. In England too this theory was enunciated by Edmund Burke in his famous speech to the electors of Bristol in 1780. He said: "Parliament is not a congress of ambassadors from different and hostile interests, which interests each must maintain, as an agent and advocate, against other agents and advocates; but Parliament is a deliberative assembly of one nation, with one interest, that of the whole; where not local purposes, not local prejudices ought to guide but the general good". Burke's idealist theory does not accord with the reality of modern day politics. He stresses the importance of acting on the basis of "one nation with one interest". While this is desirable in the abstract, it is also the bone of contention in practical politics. Though the one-nation theory would be acceptable who is to say what that one interest is to be? What about conflict of interests? How could a possible reconciliation be reached to have an agreed idea of one comprehensive interest?

594. Interests are either public or individual, regional or local. In a democracy both these types of interests will have to be served. When there is a conflict between the two the wider interest will have to prevail over the narrower interest. Even in an individual interest the principle of wider public interest may be involved. So an elected body whether a local council or a national legislature has to serve both these interests. This dualism of political representation for public and individual welfare cannot be

avoided. In democracy the essence of this dualism is an important element. In contrast fascism and communism have advocated a monistic view as to the role of a representative in a legislative body. Under fascism and communism a representative must implicitly obey the command of his party.

595. It is, however, interesting to know the legal position in the Soviet Union. Here the law does not recognise the theory of the mandate of the entire people. Instead the system of the definite and imperative mandate of the electorate is adopted. By the Constitution of 1936, Article 142, "it is the duty of every deputy to report to his electors on his work and on the work of his soviet. Every deputy may be recalled at any time upon decision of a majority of the electors in the manner established by law". In practice this power is being used by the communist party which purges any member of a legislative body who has fallen out of its favour.

596. The Nineteenth century saw the advent of political parties in a spectacular way. They emerged as the prime movers of political activities. Political parties apart, trade, economic and trade union bodies too became more vocal. These groups fielded men of their choice as representatives to the legislative bodies. In return they required the representatives they had fielded to adhere to their general policies. Eventually, it became a general but not a legal rule that a representative who is at variance with his party's policies and principles must explain the reasons for his divergence. If his reasons are not acceptable to the party, either the party may expel him or may require him to resign or may reprimand him in a lesser way. Even so we think this does not and should not affect his seat in the council.

597. In so far as local government is concerned an elected councillor must as a rule work for the benefit of the entire area and people of the local authority. This is a desirable objective. If he has to provide any benefit to his ward it must be consistent with the entire interests of the citizenary. If it is not, he must have courage not to accede to the caprice of his own electorate.

598. There is nothing wrong in a local councillor adhering to his party principles and policies. In deliberating and deciding on an issue in the council, however, he must weigh it only against the interest of the people as a whole and not against the interest of his party. If a proposal comes from his political opponent and it happens to be in the interest of the people as a whole or in part he must support it regardless of party differences. In a local government there is little or no legislative role as in the state or the central legislature to disagree on matters of policy. Most of its deliberations are more in the nature of formulating policies and occasionally making by-laws. In all these practical benefits can be easily discerned since a local government is essentially service-oriented. So, the area of difference is normally limited whereas the scope for the area of concord is often greater. If party politics are injected to cause doctrinaire differences they would be in our view more artificial than real.

599. Party caucus should refrain from imposing its instructions and directives on its local councillors and leave the councillors to manage the local affairs by having direct contact and dialogue with the electorate.

600. We therefore recommend that a councillor should not be required to vacate his seat in a local authority if he resigns from his political party or joins another party.

COMPULSORY VOTING

601. During our enquiry this was one of the questions that was frequently raised. Many advocated compulsory voting in local government elections. They felt that this would avoid unhealthy and undesirable scramble for voters. Because of the need to attract voters candidates often surreptitiously indulged in distasteful practices. Even though the law restricts election expenses, candidates with financial means could always pour their money in so many devious ways to gather support and bring the voters to the polling stations. Many so called "volunteers" and "helpers" cash in to make easy money with often useless promises to canvass support. All this had made electioneering prohibitive and in the views of some a "dirty" business. No longer is it cheap for a poor but eligible person to stand for election with his meagre means. Unless he gets party support he will be restrained by oppressive election expenses. Even with party support he will still be required to be out of pocket to some extent. If voters are compelled to vote, all these would be avoided and election expenses would be very moderate. Because some councils have not been functioning properly or efficiently, many voters have lost their confidence in them. As a result, they have become indifferent to local government and have not been enthusiastic in casting their votes. Instead of improving the malaise this had worsened it and wrong candidates get elected or re-elected. If voters are compelled to vote, irresponsible councillors have to be always on guard and serve conscientiously if they aspire to get re-elected. These were some of the views expressed to us in support of compulsory voting.

602. Compulsory voting was also opposed by many. They said no citizen should be compelled to vote. It should be left to his discretion. If he is compelled, what assurance is there that he will not deliberately cast a blank ballot paper or make such marks as will make it invalid? A citizen may not prefer any of the candidates. He shows it by abstaining from voting. If he is compelled, he has to make a reluctant choice or show his contempt by wantonly spoiling the ballot paper. Compulsory voting would involve difficulties to voters, particularly those in the rural areas. On the voting date, they will have to stop going to work and travel to the polling stations at some expenses to themselves. This will be a financial burden on them, and if they do not go they may be committing an offence for which they may be summoned and fined. This will commit them into further expenses. Such views were expressed against compulsory voting.

603. The need for compulsory voting can be approached from different angles—in particular whether voting is a right or a duty? At present it is a right. It does not, however, fall within the heading of fundamental rights. It is nevertheless a constitutional right of a citizen in the elections for both the Parliament and the State legislature. In the case of local government elections it is on the other hand a statutory right. Is a citizen obliged to exercise this right? It is clear that he has a social or a political obligation to exercise that right. If he does not exercise it, the matter rests there. Nothing can be done about it. At present the right to vote is not a legal obligation or duty. If it is, then without option, he must exercise it. It becomes compulsory.

604. Should we make it a legal obligation? Is it necessary? Unquestionably a right to vote is an important right. It has a direct bearing on the political responsibility and management of the country. It is given to the citizens as an important right to activate, preserve and perpetuate democracy.

605. Compulsory voting is normally introduced when voters have become lethargic and the voting percentage had deplorably declined. It may be introduced on the principles that voting being an important duty, not merely a right, should not be left to the whims of a voter and that there is no justification to give him the right to throw it away and that he should be obligated to exercise it in the interest of democracy and the country.

606. In most countries voting is not compulsory at present. In England and the United States voting percentages for local government elections have declined considerably. The overall figure in England is 40% and nearly half the seats are uncontested. In the United States the figures vary widely but it is stated that on the whole less than 30% of American adults vote in city elections. In Eire the percentage of the last election was 54%. On the other hand figures in respect of Continental Europe appear to be better. In Sweden some 80% of the electorate cast their votes in local government elections; in Germany, it is 70%.

607. In many of the developing countries the voting percentage has been fairly high. This may be due to the reason that local elections have been recently introduced in many of these countries and a new-found enthusiasm has been infused into them.

608. In West Malaysia too the voting percentage is creditably high. For instance, in the local authority elections held throughout the country in 1963 the voting percentage was 75%. For the purpose of conducting the elections the local government elective bodies were grouped by the Elections Commission into Local Authorities and Local Councils. Local Authorities were the bigger and more responsible local government elective bodies and comprised the City Council of George Town in Penang, the Municipalities of Ipoh and the Town and Fort of Malacca, the Town Councils and in the case of Penang and Malacca only, the District Councils and the Rural District Councils. There were 47 local authorities in West Malaysia for which the last elections were held in 1963. In the case of elections held for Local Councils throughout West Malaysia in 1962 (except in Trengganu where Local Council elections were held in the following year) the average voting percentage was 79.49%. In all there were 2,406 seats involved.

609. The above figures indicate that our local government electorate was enthusiastic to a high degree in its right to vote. It is said that voting is a means for obtaining the consent of the governed. Other things being equal, the smaller the votes cast, the narrower becomes the basis of the consent. A low poll accompanied by widespread apathy and doubt of the electorate on the efficacy of the electoral process is a danger signal to democracy. In Malaysia we have not had this signal as yet to warrant a change to the existing non-compulsory system.

610. Compulsory system is not widely practised though in some countries it has been effectively employed as in Belgium and Australia. In the Netherlands there is a half-way arrangement. A voter is required by law to report at the polling station though he is not compelled to vote. The result, however, has been good. In their local government elections about 90% of the voters cast their votes.

611. We are of the view that the present laws controlling electoral expenses and corrupt practices are adequate. If it becomes apparent that they are being abused in such a devious manner as to defeat the legal provisions and that they are not susceptible to legal proof, then in the light of experience gained the laws should be rigorously tightened.

612. We are also further of the view that if the present extent of electoral interest should consistently fall to a dangerously low level, that is below 50%, then proper study should be made of the reasons and if it is found that the voters have lost faith in the electoral process, the advisability of introducing compulsory election may then be considered.

613. We are aware that the high percentage of voting in the 1962 and 1963 local elections were confined to compact areas of towns and villages except in the States of Penang and Malacca. It may be argued that the structural reforms that we are recommending in this Report will require candidates to cover wider areas and therefore commit them to greater expenses. But this by itself is not an adequate reason to make elections compulsory.

614. Democracy thrives well by the process of persuasion rather than compulsion. A vote voluntarily cast is better than a vote compulsorily cast. A voluntary vote reflects political awareness and a willingness to judge on the part of the voter. There is a duty on the part of candidates to promote this political awareness and judgment. A compulsory vote may be the result of fear complex, that is the fear of being punished by the law for not voting without lawful excuse. It is a desirable process to build democracy on the basis of confidence rather than fear. But democracy is capable of neglecting itself and atrophying. Freedom usually is not mindful of its own survival. It sometimes destroys itself. The plutocratic Athenian democracy had to pay its citizens to attend the assembly meeting and vote—an indication in the fall of social responsibility and morale. Mussolini and through him Fascism came into power largely because most Italians failed to vote and were generally indifferent to the fate of parliamentary democracy prior to 1922. Again non-voting was an important factor in the rise to power of Adolf Hitler in the 1930s. In the 1920s voting was at a high level in Germany, thereafter it began to fall. Thus democracy paved its way for the rise of dictatorships.

615. The above instances relate to national politics and the rise and fall of democracy at national level. Are they applicable to local democracy as well? It may not necessarily be so. We know that in the United States less than 30% of the electorate vote at the local elections and about 60% vote at the presidential elections. Secondly, many of the city-manager councils draw very few voters to the poll. The low poll is said to reflect the satisfaction of the voters in the management of the council and their non-voting indicated their approval of the status quo and the non-justification for a change. When a council mismanages itself and certain important controversial issues arise, then the voters turn out in greater numbers to give their verdict.

616. So the circumstances of the voters' behaviour may vary from place to place. In one local government their non-voting may reflect satisfaction of the status quo and in another just mere indifference or apathy. In the case of the former, there may be no erosion of local democracy but it may be so in the case of the latter.

617. We therefore recommend that voting in local government elections in the country should continue on the voluntary basis as has been hitherto.

EDUCATIONAL QUALIFICATION OF A COUNCILLOR

618. The absence of educational qualification for councillors was criticised in a number of places. Various suggestions were made, ranging from the requirement of Standard V in Malay to Senior Cambridge in English. It was said that at present there is no express

legal provision stipulating minimum educational qualifications. As a result, persons with little or no education have been elected as councillors more on popularity and party support. Such members are unable to understand and follow the council procedures and legal and administrative principles involved in deliberating and deciding on matters. This has resulted in the very poor showing of a number of local authorities. If the public has lost interest in the local government in many places, one of the chief causes is the very poor calibre of the councillors themselves. The councillors are supposed to be leaders and they must be in a position to lead. Their lack of knowledge in public affairs has resulted in derisory feeling towards local government in many places.

619. In contrast to the above views, opinions were also forcefully expressed against imposing any educational qualifications. It was said that at present there is no educational qualification required for members of the State Legislative Assembly and the Parliament. Why then, it was asked, should there be a qualification for the councillor of a local council. After all, a member of Parliament or of the State Legislature has greater responsibilities than a local councillor. What is sauce for the goose is sauce for the gander and so why the difference, it was asked.

620. It was also said that a councillor's education should not be determined by his knowledge of the National Language and/or English. A person may be well educated in Chinese or Tamil. Should he be barred it was asked, from standing for election simply because he is unable to read or write in Malay or English? There were also suggestions that local authorities should be multi-lingual. It was said that there are many small local councils in villages predominantly or exclusively populated by Chinese. In these councils, the councillors are inevitably mostly Chinese. Many of them are elderly persons with no literate education. They can only freely express themselves in Chinese. To insist that in these places councillors should have a minimum educational qualification in Malay or English would be unrealistic and unfair. What is wanted for good local government is a person of common sense, experience and integrity. If matters of social interest are placed before him he will be able to decide. No literate education is essential for this. Many such persons have education by worldly experience, it was said.

621. No doubt this is a controversial issue. We gave due consideration to all the above views. At present, among other things, in order to stand as a candidate he must be a citizen of not less than the age of 21. Further he should be able to read and write Malay or English language with a degree of proficiency sufficient in the opinion of the State Secretary or any person appointed by him to enable the candidate to take an active part in the proceedings of the council. The requirement of age is a direct and statutory provision. The requirement of the above educational provision is a regulation made by each State under Section 5 (2) (*e*) of the Local Government Elections Act, 1960. This qualification has been adopted as a standard requirement throughout the States. As we can see it does not set any minimum requirement. It leaves that to the discretion of the State Secretary or his appointee. In practice, however, we came across local councillors who could not read or write Malay or English, though we did not come across anyone who could not speak some Malay.

622. There is no doubt that a literate councillor will be more able to follow council proceedings and understand the issues before the council. Since Merdeka there has been a drain of "good material" from rural to urban areas, and from local responsibilities and roles to state and central roles and responsibilities. As time passes, no doubt, this

trend will diminish. As the country develops and gets more urbanised, talented persons will have to spread themselves in seeking opportunities. When this situation emerges there will be more talents available for local services. Unavoidably this may take some time.

623. In comparing local government with Parliament and State legislature, an important point of difference will have to be noted. Though there may be a relatively lower calibre of back benchers, the most leading political figures are in the Parliament and the next tier of leadership is in the forefront in the State legislatures. If there are members with very mediocre talents in Parliament or the State legislature, their mediocrity and inadequacy are overshadowed by the more able ones in whose hands the political leadership of the country rests. On balance, the inadequacy may not be greatly felt. In the case of local authorities, apart from the Municipalities and generally the Town Councils, most of the Local Councils are manned by councillors of very poor material in terms of literacy and education. It is not a case of some brilliant ones intermixed with ordinary ones. They are mostly of low or no calibre. There is no point in mincing our words here.

624. We are, of course, aware that it is difficult to qualify all the elements of calibre. In so far as it relates to age or literacy, they can be quantified since they are measurable facts. If it relates to abstract qualities such as ability to judge, deep understanding of human affairs, personality, leadership, it is not easy to measure these qualities. In these respects, we have little evidence. We only know that most of the councillors in Local Councils have little or no literate education and that their understanding of public affairs is rather basic and rudimentary.

625. Unlike a member of Parliament, a local councillor at present plays a dual role. A member of Parliament is mainly concerned with legislative work. A local councillor, however, decides to levy rates or fees, sits in committees that approve or disapprove various applications or decides to take or not to take proceedings against defaulters and the like. In other words, he participates in deliberative and administrative roles. He is required to play an active part in the levying, collecting and spending of public funds. If a local authority is rich he has a big say in the collection and disposal of sizable funds. Further, he has to deliberate on a host of day-to-day matters of public interest. All these require persons of practical ability and knowledge. No doubt a minimum educational requirement will be an asset.

626. It can be argued that if electors elect an illiterate person, it is their right to do so and why deny them their choice. This line of argument can be countered by stating that to have a local authority itself or an elected local authority is not a fundamental right or even an absolute necessity. It is an institutional convenience in public administration. Elective representation is merely incidental in the scheme of the machinery. In the interests of efficiency the State Government is entitled to impose such restrictions as it considers necessary. Even if the objective of decentralisation is wholly one of promoting democracy the objective may be better realized by imposing such restrictions as would enable a healthy and efficient growth of democracy. Democracy itself has gone through different stages of growth. Its present content was not there in the decades past or in the previous centuries. Even today in Switzerland, a highly democratic country, women do not have the right to vote. Only as recently as forty years ago women had full franchise to vote in England. It is clear that democracy itself is a growing concept.

627. In a developing country like Malaysia, it is very important that those who play leading roles must have some literate education. Democracy can only be well fertilised by knowledge and understanding for which education is the tool.

628. At present there is an anomalous situation as regards the educational qualification required of a person seeking elective office. Curiously, Parliament in its wisdom does not stipulate any educational requirement for its members. In the field of local government the requirement that a candidate should be able to read and write the National language or English to a level that will enable him to take an active part in the proceedings of the local government is supposedly in practice. In reality, however, this requirement has never been put to test in the way it is intended. The test is not merely that a candidate should be able to read and write one of the two stated languages. It is that he should be able to read and write either of the two languages to the extent that will "enable him to take an active part in the proceedings" of the local government. The level of reading and writing here is co-related to the ability to take an active part in the council of a local government. In our view the requirement of an active part should not be a criterion. On the other hand, the ability of a member to understand the council's proceedings is desirable. A councillor may or may not be active; that is his choice. If he is not active the elector should be his arbiter. What is more important is that he should be able to understand the proceedings so that he can address his mind to a subject and arrive at a decision. Should ability to understand, therefore, be a criterion? Even this, we do not consider should be a criterion for the reasons that follow.

629. It has been said that an ideal politician is a mediocre man—a man with an abundance of common sense. What is needed is the application of common sense to mundane matters aided by the tool of a minimal literate education.

630. It is only a matter of time that literacy will become the order of the day in our country. The pace with which literacy is now embracing the school-going generation is strikingly impressive. In the meanwhile, the country has to reconcile with what it has. Putting a high level of educational requirement would be unrealistic. Having no educational qualification at all would be self-defeating. A medium, even if not a happy one, has to be struck.

631. It is easier to stipulate a requirement but it may not be easy to enforce it. A councillor's inability to understand the council's proceedings may be detected with relative ease. But a member, if given some time, may pick up knowledge by experience. Eventually, his capacity to understand may blossom. At what stage, then, is his ability to understand council's proceedings to be tested? This is a difficult question for which an answer may not be easily found. It may be asked, quite rightly too, why should a member be given time to gain experience to understand the council's proceedings at the expense of the electorate.

632. Testing a candidate's ability to understand or his capacity to take active part in the proceedings can only be effectively exercised after a candidate has been elected and not before. A testing process of this kind is both invidious and not practical. There should be a simple requirement of educational qualification which should be easily capable of ascertainment before the election and not after. The requirement should be of two categories. One is for those in possession of educational certificates. The other is for those unable to produce any such certificates. The latter category is for those who have stopped their education at an early level and had subsequently picked

up knowledge by practical experience. In either of these cases, the test should be one of literacy only and elements of understanding or the potential for active role in the council should be excluded. In the case of those who have the required educational certificates, the mere production of the certificates should be adequate without any further formalities.

633. The educational qualification should, of course, be in addition to other qualifications such as age, citizenship, residence as are at present in force. As regards the machinery for testing the ability to read and write the National Language or English, we are of the view that leaving it as at present in the hands of the State Secretary or his appointee alone is not satisfactory. No one officer should be vested with such a wide power. It may give rise to narrow subjectivism or even abuse.

634. We therefore recommend that a candidate in a local election should have one of the following qualifications:

(i) (a) he should have passed Standard IV in a Malay School or L.C.E. in Bahasa Kebangsaan (National Language) or any other higher standard or qualification and is in possession of a certificate in support thereof; OR

(b) he should have passed Lower Certificate of Education in English (L.C.E.) or Standard VII in the former educational system or any other higher standard or qualification and is in possession of a certificate in support thereof; OR

(c) if he is unable to produce any of the certificates referred to in (a) and (b) above, he should be able to read simple passages either in the National Language or in English;

(ii) on the nomination day, every candidate should forward with his nomination papers a photostat of his educational certificate if he is in possession of such a certificate;

(iii) in the case of a candidate who does not possess an educational certificate, he should be tested by the Returning Officer in the presence of and witnessed by one prominent citizen appointed by the State Authority as to the candidate's ability to read as provided in (i) (c) above. On being satisfied, the Returning Officer and the witness should sign a certificate to the effect that the candidate had passed the test. This certificate should be filed by the candidate together with his nomination papers.

MULTI-LINGUALISM IN LOCAL AUTHORITIES

635. Consideration was also given to the proposal of multi-lingualism in local government. It was suggested that four languages, namely, National Language, English, Chinese and Tamil should be allowed to be used in the proceedings of the council of a local authority. Though for the present the use of four languages may be convenient to the representatives of various ethnic groups, we are of the view that in the long term interest of nation-building, the wider use of the National Language should be promoted from now on. The logical process should be one of greater use of and dependence on National Language and not the reverse of it. If multi-lingualism is allowed in local government it will to that extent retard the use of National Language in this field.

636. We are therefore unable to accept the suggestion of multi-lingualism and accordingly recommend that:

Only the National Language and English may be used in the councils of local Government and that the National Language should gradually replace English in accordance with the national policy of the Federal and the State Governments.

ELECTOR-COUNCILLOR RELATIONSHIP

637. In several places councillors complained to us that they were being "exploited" by the electors. When asked to explain they said that particularly in Local Councils, the electors do not seem to know the difference between a matter of public importance and private benefit. When there is a quarrel between a husband and wife a councillor is called to mediate and settle. When someone is sick in a family, a councillor is asked to take the sick person to the hospital or a doctor or make the necessary arrangements. When an elector is in debt he approaches and even expects the councillor to help and get him out of the woods. It is not uncommon that a councillor is disturbed in the middle of the night to attend to an elector's personal problems. An elector in a village expects a councillor to be at his beck and call and to serve as a do-gooder at all times. It is said that there should be a limit to all these and unless the electors understand their rights councillors are likely to be over-harrassed and even exploited. To be a councillor in these circumstances is not at all easy, quite apart from the time and expenses involved in providing services. The electors really expect too much from their councillors without being able to distinguish matters of private from those of public interests.

638. We observed that the above complaints were relatively more common in small Local Councils where a councillor represents a small number of electors. In these circumstances, their relationship assumes a very personal character. A councillor is perhaps expected to be a kind of a friend, philosopher and guide. Some rural people look up to their councillors to advise and even to help them solve their problems though they might be very personal. In such a situation abuses of rights are likely to happen.

639. It is not always easy to draw a sharp line between matters of public and private interests. Public service is of two kinds: (i) that which benefits the public at large, e.g. the building of a bridge or the establishment of a health clinic. These are essentially public in character. They are intended to serve the public as a whole but an individual may have the use and benefit of it; (ii) that which benefits only an individual so long as there is a public duty to provide a service, e.g. the granting of a licence. If this is unreasonably refused a councillor may help the elector to seek redress. On the other hand if an elector is in debt it is not the public duty of a councillor to help the elector to settle his debt. It is another matter if he wants to help in such a case. What should be understood is that a councillor is not obliged to help in a matter where no public duty is involved.

640. In the final analysis elector-councillor relationship should be the persuasive result of understanding and education and not the compulsive effect of legislation. A correct understanding and appreciation of the nature of relationship is vital to the vibrant growth of democracy. Surrounding factors that would foster such understanding and appreciation should be carefully set up.

641. In this country representative democracy is relatively a new concept. In precipitously exercising democracy it would be prudent to expect a lack of balanced appreciation of democracy's inherent values at least for some time. Political empiricism does not mature itself overnight. If an elector expects too much from his councillor as the price of democracy, it is because he does not know where to draw the line. Being over-conscious of the vote placed in his hands he might easily over-rate the value of the vote. Fallaciously he might expect that his councillor should be at his beck and call. It is necessary that he should be made to understand that a councillor is not his employee or an agent and that he is not even a delegate. A delegate acts on a mandate. A councillor strictly is a representative. He does not work on a mandate but works relying on his good sense as to what is beneficial to the electorate. He might have been elected by reason of the manifesto that he presented to the electorate. He is not even obliged to carry out all that he had stated in his manifesto. The elector, of course, has the right to assess him on his record of service when he seeks re-election.

642. In rendering service a representative has to use his discretion. He is not expected to move heaven and earth in pleasing his elector. He must be in a position to tell his elector what he, as a councillor, can do and what he cannot or should not do. A councillor may, of course, help his elector in a personal sense and not as a councillor. But how is an elector to know this? Here is where a proper education is necessary.

643. One of the ways this education can be fostered is by having an Association of Councillors of Local Authorities. Such an association should be a statutory body like the Bar Council. We realise that local councillors do not strictly constitute a professional body. They are nevertheless required to play an important role. They are given the apparatus of elective representation. This means they have to ride what is generally known as an unruly horse in a ruly sense. Their responsibilities and sense of a fair play related to the role of managing democracy are not of mean significance. Additionally they have to oversee public administration of a complex nature. A multi-purpose local authority has to have a variegated administration as distinct from a uni-purpose authority like the National Electricity Board. They have to also handle public finance which is a matter of grave responsibility. All these require regular and articulate diagnosis and prognosis of local government matters. To do this effectively local government matters will have to be collated, considered and concluded on a nation-wide basis. For this, a statutory body as suggested above, is necessary to reflect the views of the councillors throughout the country. If it is a voluntary body it may not sustain itself on a regular and healthy basis. It is desirable that every councillor by law be required to be a member of this body and his annual subscriptions be paid for by the local authority. It should have a two-tiered structure, viz: a National Headquarters and a State Branch. Every State Branch should have an annual conference at which all the local authority councillors in the State should have the right to participate. The Menteri Besar or the Chief Minister of a State should as of right be entitled to address the conference. The State Conference should consider problems related to local government in the State as a whole and make such recommendations as are considered desirable to the State Authority for its consideration and, if possible, adoption. On matters of national importance the State Conference may by resolution make recommendation for the consideration of the National Conference. It is desirable that every local authority be entitled to be represented by one-fourth of its members at the National Conference as

delegates of the councillors of that district. Such delegates should be elected by the councillors on a proportionate basis, i.e. reflecting the strength of the political parties in the Council.

644. The National Conference should be annually held and the Minister for Local Government should as of right be entitled to address the conference in regard to national policies and objectives of the Federal Government towards local government as a whole.

645. The conference should serve as a national "clearing house" on current matters relating to local government. Experts or knowledgeable persons on local government should be invited to present papers on topical matters related to local government such as:

(i) inter-governmental relationship between local government and the State, local government and the Federal Government;

(ii) structural and constitutional problems of local government;

(iii) administrative principles, practice and related problems;

(iv) financial scope, autonomy and related problems;

(v) services, their range, their remunerative or non-remunerative aspects, participation in development projects;

(vi) councillor-voter relationship and matters related to elective representation;

(vii) political partisanship and related problems;

(viii) generally, problems of decentralisation, development and democracy in local government.

The above items are by no means exhaustive. They are merely illustrative of the range of relevant subjects that might be discussed from time to time so that clear thinking on all these matters can be promoted.

646. The National Conference can also pass resolutions for the consideration of the Minister for Local Government and the National Council for Local Government. Such resolutions should not have any binding effect on the Minister. It should be only recommendatory in nature. It should be up to the Minister to accept or reject it. If he finds that it merits consideration he may refer it to the National Council for Local Government for its consideration and adoption. In short the National Conference of the Association of Councillors of Local Authorities should operate as a kind of a clearing house on local government matters with a view to achieving modifications and innovations in harmony with the needs of the time.

647. We therefore recommend that:

(i) an Association of Councillors of Local Authorities should be established;

(ii) such an Association should be a statutory body;

(iii) every councillor of a local authority in the country should be a member of the Association and his annual subscriptions paid by his local authority;

(iv) the Association should be provided with a Constitution by the Ministry of Local Government with the concurrence of the National Council for Local Government;

(v) the Association should consist of the following—

(a) a National Headquarters at the Federal level;

(b) State Branches at the State level;

(vi) the National Headquarters should convene an Annual National Conference. Likewise every State Branch should convene an Annual State Conference;

(vii) every councillor of a local authority should be entitled to attend and participate in the Annual Conference of his State;

(viii) the councillors of every local authority should elect one-fourth of their strength to attend as delegates at the Annual National Conference;

(ix) the State Annual Conference may pass resolutions on local government matters in the State as a whole and submit them for the consideration of the State Authority. Such resolutions should not be binding on the State Authority which may reject or accept them at its absolute discretion;

(x) a State Conference may also submit resolutions for discussion at the National Conference provided such resolutions are pertaining to local government and are of national importance;

(xi) the State Conference may invite experts and others knowledgeable in local government matters to speak and present papers on local government matters which are of educative value;

(xii) the resolutions passed by the National Conference should be submitted to the Ministry of Local Government with no binding effect on the Minister. The Minister may reject them at his absolute discretion, but if he considers them meritworthy he may refer them to the National Council for Local Government with his own views thereon. Where the resolutions are of urgent importance the Minister may take such other steps as he may consider necessary to have them formulated into a policy or implemented with the concurrence of the State Authorities;

(xiii) at the National Conference experts and others knowledgeable in local government should be invited to speak and present papers on subjects of local government interests such as those referred to in para. 645 above;

(xiv) it should be provided in the law that the State Conference and the National Conference should not be used as platforms for political or partisan propaganda and that it should primarily serve as a study forum for the ventilation of views on local government matters per se without political or partisan connotations.

CHAPTER IX

CONSTITUTION AND STRUCTURE

648. In approaching the subject in a proper sequence and in a logical manner, we have so far considered (*a*) the concepts and objectives of local government which are the theoretical basis of local government; (*b*) the ecological conditions of local government which from time to time influence the growth or the change in the character of local government; and (*c*) the factors determining the size of local government units. The analysis of these three factors would be useful for all times. They will serve as guidelines for any future review of local government. They will also rationalise our thinking on and approach to the subject from time to time. It is not uncommon to embark upon reforms without fully and logically comprehending the theoretical factors that should rightly influence our thinking. A perspective comprehension is always useful for arriving at specific decisions. It is in this respect that our analysis would, we believe, be helpful. The existing anatomy of our local government, the problems of the State Capitals and matters related to elective representation were dealt with in Chapters VI, VII and VIII. We have made specific recommendations on political matters in the preceding Chapter on Elective Representation.

649. Any studied report will have to be necessarily devoid of emotional approach. At the time we commenced our enquiry and right through our enquiry, we sensed that the local government atmosphere was charged with some degree of emotion. In some places, views were dogmatically expressed. Over-simplified and superficial conclusions were understandably widespread. Pros and cons were very cut and dried. Occasionally, we also heard views laced with sobriety and objectivity. Most of the views, however, centred around the question as to whether we need a decentralised local government in the first place. If so, should it be based on a nominative or elective footing? Views were frequently expressed on related and popular matters as well. They touched upon such questions as whether there should be elections on a partisan or non-partisan basis, compulsory or voluntary voting and whether councillors should have more allowances and the like.

650. In the previous Chapter dealing with political matters, we have made several recommendations in regard to electoral basis, character of representation, compulsory voting, partisan politics, councillors' qualifications, etc. All these would be applicable to the local authority recommended hereafter including, of course, the State Capitals.

651. The next logical question is what sort of structural reform is suitable in the light of all that we have discussed earlier. Do we need all the existing different units of local government? If not, how could each of the categories be completely replaced by a composite single pattern of local government?

CO-OPERATION OR AMALGAMATION

652. Broadly, there were two views. One called for co-operation, and the other advocated amalgamation. Protagonists of co-operation said that the existing local authorities should be allowed to carry on as they are, and wherever necessary two or

more local authorities should jointly establish an administrative machinery to provide services more efficiently and economically. For instance, if a Local Council is financially unable to engage a health officer of its own, it may do so by sharing the expenses with one or more adjoining Local Councils. Thus, a health officer's administrative machinery may be jointly created by two or more Local Councils sharing expenses. Likewise, any number of other services could be provided. This, in essence, was what was meant by co-operation.

653. Amalgamation is the next proposal and this calls for radical reorganisation. It advocates the merger of existing categories of local authorities into new larger units. We have already discussed at length the gradually growing international trend towards amalgamation in view of the need for regional planning and for the necessity of providing efficient services.

654. Throughout our enquiry many recommended the setting up of local authorities on the basis of the existing administrative districts in place of the multifarious existing units. In other words, they just wanted one unit covering an entire district. The term District Council was generally used in making this proposal. Reasons given in support of the proposal are summarised as follows:

(i) a District Council will be a large unit with correspondingly greater resources to deploy for the welfare of the people in the district as a whole. In other words, it will be financially more viable than the existing fragmented units;

(ii) it will be in a position to engage the services of qualified officers unlike many small Local Councils that cannot afford to employ more than one clerk;

(iii) every part of the district will be catered for by a local authority, resulting in no person living outside any local authority area. At present, local authority services are only confined to identifiable urban areas and villages. Outside these areas no services are rendered by local authorities. A District Council will be able to provide some services hitherto not available to the rural people throughout the district. This might help to close the gap in social amenities between the urban and rural people;

(iv) urban development can be more effectively planned and carried out in a district with one district-wide local authority. In particular, regional planning will be greatly facilitated;

(v) it will help promote nation-building since in a District Council, urban and rural people will be represented in one Council. This will enable a bridge of good fellowship and understanding to be built between the two;

(vi) where a district is too large, it may be provided with two or more District Councils.

655. The following views were expressed against the proposals in support of the District Council:

(i) a local government means a government for the local people and not a government for a region. In area, it must be small enough to be local in character. A district is too large to provide a local feeling;

(ii) it will not provide the close sense of citizen-participation as in a town or village. A District Council will be too remote and impersonal to a citizen living in a rural area who will have to travel some distance to reach the office of his District Council;

(iii) the interests of the people in an urban area and those in a rural area are generally incompatible and at times conflicting. It is better to have separate local authorities for each of these groups of people so that their peculiar interests can be better served. A District Council will find it difficult to serve diverse territorial groups fairly and without friction and conflict as there will be no community of interest in an area as big as a district;

(iv) there is no assurance that a District Council will be financially viable. Even if it has greater resources, its correspondingly wider responsibility to serve a larger area and more people would make it not all that viable;

(v) a District Council would impose rates throughout the district, even though no services may be rendered to house-holders in rural and remote areas thus causing hardship to the people in the rural areas;

(vi) what is needed is to strengthen the existing local authorities by removing their defects and not by replacing them with an unwieldly and large local authority.

656. We gave due consideration to the above views. We noted the suggestion that the existing local authorities could be strengthened by eliminating their weaknesses. It was clear to us that mere removal of the weaknesses of the present categories of local authorities would not necessarily enhance their strength. The problems of the present local authorities are much more basic than superficial defects. However much one strengthens a Local Council, it will not be in a position to provide more than rudimentary services. Even if some Local Councils jointly engage officers to serve, they would still be hamstrung by administrative and financial difficulties. It will be far easier for one authority to provide a service than several authorities. It will be so even for an officer. If one officer is engaged by several authorities, there will always be perennial problems of priority, co-ordination and even conflicts of loyalties.

657. In a country like Malaysia, nation-building is a matter of vital urgency. As far as possible, every governmental division must be so organised as to promote, reflect and consolidate the spirit for national cohesiveness. Likewise, the other objectives of decentralised local government must receive adequate recognition and be translated into realities. The small fragmented local authorities, barring few, will not be able to promote effectively the objectives of decentralisation, namely, democracy, autonomy, social and economic development and efficiency in administration.

658. If allowed to operate as they are now it is feared that many of the small local authorities, particularly the Local Councils, may eventually develop into little ethnocentric cells of narrow chauvinism. This fear is justified by the fact that most of them are completely or predominantly populated by one or another ethnic group. Before narrow chauvinism hardens itself into a centrifugal force incompatible with the force for nation-building, the entire structure of local government should be re-structured. This

is vital to promote inter-ethnic and rural-urban concord in the affairs of local government. Such structural reform will operate as an instrument to promote nation-building. In order to bring about this reform, a local government should be sufficiently large as stated earlier.

659. As they are now, most local authorities are structurally weak and unsuitable to participate in the social and economic uplift of the country. Unless a local authority is able to participate in the development process of the country, there will be little or no meaningful appreciation of its very existence. One of the preconditions for the development of such appreciation is that a local government unit should be sufficiently large. We have already discussed earlier that for effective physical planning, efficiency in administration and for financial viability, a local government unit should be fairly large in size.

660. All these considerations have compelled us to come to the conclusion that in place of all the various categories of local authorities, including those at the State Capitals, a single pattern of local authority should be established on the basis of each existing administrative district.

661. The existing districts have been generally advocated to us as the most suitable territorial basis for the proposed local authorities. We are not unmindful of the fact that the boundaries of the districts have not been drawn with decentralised local authorities in mind. They were originally demarcated for the convenience of deconcentrated administration. Over the years their boundaries have been slightly adjusted but in the main they have remained the same. The districts are traditionally well known as the local administrative landmarks. People have got accustomed to identifying themselves and their interests with their districts. The district office has been well recognised as the focal point of local administration. The town where the district office is situate has been customarily accepted as the capital of the district. Rights related to land matters have been generally identified with the district. Services of various kind have been provided on district basis. A loose community of interest has grown among the people of a district, who naturally look towards the District Officer for local matters of public importance. A host of applications is channelled through the district office from the people in a district. Voluntary services of citizens in a district are recognised both by the State and the Federal Government in granting awards. All these have created an emotional tie and loyalty of the people with their districts. Such an emotional basis is an excellent psychological foundation for a decentralised local authority. It will serve as a ready-made basis on which the edifice of a local authority may easily be erected. Conversely, a completely new territorial basis for a local authority may cause problems of psychological adjustment, quite apart from other problems of harmonisation.

662. We are therefore of the view that taking all factors into consideration, the present administrative districts should serve as the basis for decentralised local authorities.

663. There are at present 71 administrative districts throughout West Malaysia. Not unnaturally, some districts are large and others small. Some have more population, others less. Some large districts have sub-districts within themselves. Even a large district, with sub-districts, has one District Officer as the overall administrative head. Under him there may be Assistant District Officers in charge of individual sub-districts.

664. It is important that a district local authority should not have too small a population. A small population would not yield sufficient revenue and the unit cost of services

on a *per capita* basis would be relatively high. As has been mentioned earlier, a local public health unit should have a population of at least 50,000 persons to be served. Then only can it have a minimum staff of qualified public health personnel such as a Medical Officer of Health, a Health or Sanitary Inspector and sufficient numbers of other personnel.

665. The trend in India supports an average population of 80,000 and in Ghana 60,000 has been suggested as a desirable population for a local authority of the size of a district. In England too, the figure of 60,000 has been recommended as being suitable for "most purpose" authority. Henry Maddick says that "in wholly urban areas this figure may rise to as much as 200-250,000 before becoming unwieldy. At the other extreme a very sparse population may compel the lowering of the figure to 30-40,000 if districts almost sub-continental in extent are to be avoided, or if districts are not to be divided by almost impassable natural boundaries".[1]

666. Having regard to the ecological conditions and the factors that govern the size and population of a local authority, we are of the view that the proposed district local authority should have a minimum population of 30,000.

667. Where a district is large with a big population it may be divided into two but not more than three local authority districts. As an example the district of Kinta in Perak is a case in point. Its estimated population in 1967 was 539,046. This district has three sub-districts, viz: Kampar, Ipoh and Batu Gajah. Each of these sub-districts should be provided with a separate local authority. Likewise, other large districts with a high population and without sub-districts may be divided into two or three local authority areas provided such division does not result in reducing the district into very small local authority areas which may not be conducive to physical planning or may not give a sufficient rural and urban base.

668. According to the estimated population as at January 1967, only three of the 71 districts have each a population less than 30,000 people. They are the districts of Sik in the State of Kedah with a population of 27,294, the district of Cameron Highlands in Pahang with a population of 18,720, and the district of Marang in Trengganu with a population of 17,244. In the case of Sik, it is probable that it now has a population exceeding 30,000. As such, it should be granted a separate local authority for itself. In the case of Cameron Highlands, we are of the view that it should be exempted from the minimum population requirement in view of its mountainous terrain and isolation from the surrounding districts. Marang should be amalgamated with a suitable adjoining district or where this is likely to result in too unwieldy an amalgamation, then it may be joined with a portion of the adjoining district provided that the population is not less than 30,000.

669. We note that in the case of the State of Perlis, there is no administrative district at present. The estimated population of the State in January 1967, was 109,620. It is possible this figure has further increased since then. We are therefore of the view that the whole State may be divided into three local authority districts with each having roughly a population not less than 30,000. If this is not practicable then at least two local authority districts should be set up.

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[1] Henry Maddick: Democracy, Decentralisation and Development. Asia Publishing House, London (1963), pp. 118-119.

670. We therefore recommend that:

(i) the existing local authorities of all categories should be dissolved and in their place a single composite local authority be established co-terminous with each of the administrative districts subject to (ii) hereof;

(ii) where a district is large in area and in population and it is found convenient to have two local authorities in that district, the State Authority should establish two separate local authorities for each of such areas, provided that no such area has a population less than 30,000, not too small for physical planning and has a sufficient rural and urban base. In exceptionally large districts, three local authorities may be established but in any event no district however large should have more than three local authorities;

(iii) exception to (ii) above should be made for the districts of Sik, Cameron Highlands and Marang;

(iv) in deciding whether two (and in exceptional circumstances three) local authorities are necessary in one district, the State Authority should take into consideration the ecological conditions of the district and the factors determining the size and population of a local authority.

JURISDICTION

671. At present local authorities in the country do not cover every part of the country. This is one of the basic defects of the present system. Most of the local authorities are artificially confined to very small areas not compatible with development, physical planning or equity in democracy.

672. The present system is singularly arbitrary and lopsided. Not only the right to have a local government has been given to nearly all the urban people but a majority of them have also been given democratic rights and representation in managing their local government.

673. It may be recalled that of the estimated population of 8,415,000 at the end of 1966 in West Malaysia, 4,238,643 of them enjoy the opportunity of local government. This means about half of the country's population has this opportunity. And they live in a total area of just over 3% of the country, i.e., 1,721 square miles out of the country's total area of 52,000 square miles.

674. The other half of the people generally live in rural areas. They have not been given the opportunity of local government. What is the reason for this difference? Why were people in the urban areas given local government and not those in the rural areas? No particular reason can be found. It was perhaps that, when local government was introduced in the country, it was initially thought it had to be introduced first in the urban areas. Had it not been for the Emergency, the new settlement villages might not have had any local government with the accent on democracy.

675. If there was a concept that local government was in the main suitable for urban centres and urban people nothing could now be more out-moded in thought than this. As we have stated earlier, modern conditions of life are highly and intricately inter-related. No urban centre or urban people can live in isolation from their rural counter-parts. Socially, economically, culturally and even territorially they have been made highly inter-related and inter-dependent by modern conditions.

676. Therefore no l ... government reform is worthwhile and justifiable if it is limited only to urban centres and people. It will create an undesirable dichotomy and even release unhealthy forces which will not be conducive to the realisation of the objectives of decentralisation. It is therefore absolutely vital that the future local government in the country should cover every inch of the country and should be aimed to serve both the urban and rural centres and people.

677. Of course, no right should operate in vacuo. It should be co-related to duty. Local government is not just an organisational or democratic embellishment. It has a positive role to play. Therefore, every house-holder in a district should be required to pay rates firstly relative to the services he receives. As such, there should be a differentiated scale of rates based on the quantum of services rendered. But even when a house-holder in a remote area does not receive any service, as a matter of duty he should nevertheless be required to pay at least a nominal contribution of $1 per year in lieu of rates. Why should he pay when he does not get any service? This is based on the theory that no man lives in complete isolation these days. He is bound to derive some benefits from the general, social and economic progress of his area. He should at least pay a token contribution therefor. Again, it is said that there should be no taxation without representation. Conversely, it can also be said there should be no representation without taxation. As every citizen in a district will have the right to elect his representative and voice the interests of his area and community through him, it is not iniquitous to require him to pay a token contribution for this right.

678. We therefore recommend that:

(i) the local authority established for a whole or part of a district should have jurisdiction over the entire or part of the district as the case may be;

(ii) in principle, a district local authority should provide services throughout its district;

(iii) depending on the quantum of services rendered there should be a difference in the scale of rates levied against rural house-holders;

(iv) every house-holder in a local authority should be required to pay a nominal contribution of not less than $1 per annum in lieu of rates if no service is provided by the local authority.

NAME AND STATUS

679. We have recommended a district local authority for each district. Structurally, the proposed authority will be the same throughout the country. No doubt this will provide uniformity. But, in providing uniformity, the human elements of zeal, initiative and competitive spirit should not be overlooked. Healthy competition has been the driving force in human strive for progress. It is therefore necessary that the proposed district local authority should be of two types, namely, Municipality and District Council. These are not merely elegance of nomenclature. There should be a deliberate significance in such classification.

680. At the moment, there are already three Municipalities, namely, the Municipality of George Town, Malacca and Ipoh. All three are relatively well developed and they have the financial wherewithal and suitable administrative machinery. They should not now be downgraded. If anything, they should be cured of their defects and allowed to

make greater headway. Further, a competitive aura should be introduced so that other local authorities can aspire to reach municipal status. For this purpose, we are of the view that all local authorities with an annual total income of $2,000,000 and above should be given the status of Municipality. We have chosen this sum as a hallmark of Municipal status because it reflects a relatively high degree of urbanisation.

681. Apart from the three existing Municipalities, we observe that the Town Councils of Johore Bahru, Klang, Taiping and Seremban and the Town Board of Petaling Jaya also qualify for Municipal status. The revenue of these local authorities in 1965 were as follows:

Johore Bahru	$2,954,193.32
Klang	$1,970,701.40
Petaling Jaya	$1,876,703.00
Taiping	$1,441,928.00
Seremban	$1,278,900.21

The above revenues were limited only to the Town Council/Town Board areas. Now that the proposed local authority will cover the entire district of the above towns, it can be safely assumed that each of them will sooner or later have an annual revenue exceeding $2,000,000.

682. In this respect, we should state that Petaling Jaya should be constituted as a local authority district with such surrounding areas as the State Authority may consider necessary and be declared a Municipality.

683. We therefore recommend that:

(i) the local authority of a district or a part of a district should be styled as Municipality or District Council;

(ii) the criteria for giving the status of Municipality or District Council should be based on the revenue of the particular authority;

(iii) where an existing Municipality or Town Council together with the other local authorities in the district would have an annual total income of not less than $2,000,000 it should be styled a Municipality. Where the annual revenue is less than $2,000,000 it should be styled a District Council. In addition to the existing Municipalities in George Town, Ipoh and Malacca, the following should be given Municipality status: Johore Bahru, Klang, Petaling Jaya, Taiping and Seremban.

LAW

684. At present, there are multifarious legislation governing local authorities. The States of Johore, Kelantan and Trengganu have their own Town Boards Enactment. It is like breaking through a veritable legal jungle to lay one's hand on a specific point. It calls for a laborious search which often results in infuriating delays. There is no doubt that this is a most unsatisfactory state of affairs. In any event, the need for uniformity of the local government law cannot be overstated. What is needed is a simple straight-forward law applicable throughout the country. There should be one local government law applicable to both Municipalities and District Councils. Though local government is a State matter, we are of the view that Parliament should pass

the future Local Government Act after such constitutional consultations as are necessary. It should then be adopted by all the State Governments within a given time after the Act has been passed.

685. We therefore recommend that:

(i) there should be one composite law replacing all existing laws throughout West Malaysia under which local authorities of all categories at present operate and it should be styled as the "Local Government Act". It should relate to and govern both the Municipality and the District Council;

(ii) the Local Government Act should be passed by Parliament after necessary consultations with the State Governments as required by the Malaysian Constitution;

(iii) every State should adopt and enforce the Local Government Act within six months after it has been passed by Parliament.

DECENTRALISATION

686. Decentralisation as a process for local government has been elaborately dealt with in Chapter III and in various other parts of this Report. This is not a new concept in this country and its attributes are too well-known to be repeated here.

687. A local authority is a statutory body corporate. It is not a deconcentrated government. It is a decentralised authority and as such, it should have its normal attributes. Otherwise, it will be a meaningless exercise. Whether or not elective representation should form part of it has already been dealt with in the previous Chapters. The question of autonomy, too, has been exhaustively considered. Autonomy does not mean financial autonomy alone but is also one of administrative and functional autonomy. In granting functional autonomy, we have introduced the doctrine of general competence (*see* Chapter III) which is no doubt an innovation. Nevertheless, we are of the view that it should be provided in the proposed Act for the reasons given earlier. There is no reason to fear that this will be abused since a local authority is required to obtain the approval of the State Authority before it can exercise a function under general competence. In the case of administrative autonomy, the present position has been generally retained with a major departure in so far as the Secretary is concerned, about whom we will consider later.

688. We therefore recommend as follows:

(i) the local authority should be decentralised and should have the following attributes—

(a) it should be a separate legal person or a body corporate;

(b) it should be autonomous;

(c) it should be representative;

(d) it should be subject to the control of the State Authority;

(ii) it should, inter alia, have the following attributes of a body corporate—

(a) a perpetual succession;

(b) a common seal;

(c) power to sue and be sued in its own name;

(d) power to enter into contracts;

(e) power to acquire, purchase, take hold and enjoy movable and immovable property of every description;

(f) power to develop lands for social amenities and for remunerative purposes;

(g) power to convey, assign, surrender and yield up charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with any movable or immovable property or any interest therein vested in the authority upon such terms as to the authority may seem proper, prudent and fit;

(h) power to lend and borrow money for any of the authority's purposes or interests subject to the approval of the State Authority;

(iii) the above attributes and powers should be in addition to those specifically enumerated in the Act and subject to such controls of the State Authority as are expressly specified;

(iv) the local authority should have such sufficient degree of autonomy as to make it function with initiative and enthusiasm;

(v) it should have financial, administrative and functional autonomy to a reasonable extent;

(vi) within the approved limit and within the provisions of the Act it should have power to impose rates and fees, to retain the revenue and expend it, subject to the approval of its draft annual budget by the State Authority;

(vii) financial autonomy does not mean financial self-reliance and every local authority should be entitled to receive financial grants from both the State Authority and the Central Government, notwithstanding its financially autonomous status;

(viii) every local authority should have administrative autonomy to the extent that it should be able to decide by itself the category and the number of qualified officers and other employees it needs subject to the approval of the State Authority;

(ix) the Local Government Act should enumerate certain functions as obligatory and other functions as discretionary;

(x) every local authority should perform all obligatory functions and may perform any or all discretionary functions;

(xi) in addition to the enumerated powers, whether obligatory or discretionary, a local authority should have general competence to do whatever in its opinion is in the interests of its area or inhabitants, subject to its not encroaching upon the duties of other governmental bodies and subject to the prior approval of the State Governments.

REPRESENTATION

689. After careful consideration, we have arrived at the view that the proposed Municipality should be fully elected on popular franchise.

690. In the case of the District Council, we think that the question whether or not it should be wholly elected should be left in the hands of the individual State Governments. In any event, the District Council should have most of its members elected. If

appointment is found necessary to give adequate representation to minority and other specific interests, then not more than one-third of the entire number of the elected members of the Council should be nominated, e.g., if the Council has 30 elected members, the State Authority may appoint persons to sit on the Council up to a maximum of 10 in number.

691. It is very necessary that the process of nomination should be spelt out in the proposed Local Government Act as forceful criticisms were made as to the biased and partisan way nominations had been made in the past. The nominative element has been introduced to enable a balanced representation in a District Council which will be an enlarged organisation. Though in the case of Municipalities no provision for nomination has been recommended, we consider that in the proposed Distirct Council such a provision may be found useful and even equitable especially in view of the fact that elections have been allowed on a partisan basis.

692. Deciding on the yardstick to fix the minimum and the maximum number of councillors for the proposed local authority was a vexed question. It is important that a Council should not be too big or too small. If it is too small, there will be no adequate representation. If it is too large, it will be unwieldy and cumbrous. A District Council will no doubt be responsible for a fairly large area. It will have to cater to the interests of a substantial population. What is the ideal number of persons that a councillor should represent? If the number is too large, he will be a remote, impersonal figure to the citizen. If it is very small, he may become too personal to the citizen and may even be subjected to harassment by the electors as has been evinced in the case of Local Councils. We have recommended that the minimum population of the proposed local authority should not be less than 30,000. If 22 councillors represent 30,000 persons, each councillor will have to serve just under 1,500 persons. This in our view is not too large a number, nor is it too small. In a compact urban area with a high population density as in the district of Penang North East in which George Town is situate, a councillor may have to serve as many as 7,000 persons. This will be so if the full strength of 42 councillors is elected for the Municipality of Penang North East. No doubt the range is wide between 1,500 persons for a councillor in the least populated districts and 7,000 persons for a councillor in very densely populated areas. In a compact urban area, it is unavoidable for a councillor to serve a larger population. On the other hand an urban councillor will have a smaller area to contend with, whereas a rural councillor will have a larger area to look after, though he may have a lesser population. Population growth and mobility cannot be easily controlled and as such no ideal ratio can possibly be suggested in this respect.

693. **We therefore recommend that:**

(i) every local authority should have a representative body known as the Council;

(ii) all the councillors of a Municipality should be elected by citizens of the authority area and by popular franchise;

(iii) likewise, all the members of a District Council should be wholly elected with a proviso that the State Authority, if it deems necessary so to do in order to ensure the adequate representation of minorities and specific interests such as trade, culture, trade union, profession and sports, may nominate for a term of one year

such number of persons as would not exceed one-third of the entire number of the elected members of a Council. A nominated member may be eligible for renomination for a further term or terms;

(iv) the District Secretary of a District Council should, at the instance of the State Authority, request recognised local organisations representing minorities or the aforesaid specific interests to submit names in the alternative and the District Secretary should prepare a list of names representing the minorities and the said interests and forward the same with his preferential recommendations. The State Authority should nominate the number required only from the list of names forwarded by the Secretary;

(v) voters' qualifications and disqualifications should continue to be the same as they are at present;

(vi) the Elections Commission should be responsible in consultation with the State Authority for any demarcation of the electoral wards in each local authority area. Determination of the number of councillors for every local authority should be vested with the State Authority;

(vii) in determining the number of councillors, the State Authority should take into consideration the district's ecological conditions, the factors determining the size and shape of the district and its density of population;

(viii) a Council should consist of not less than twenty-two and not more than forty-two members;

(ix) every councillor, with the exception of nominated members, should be directly elected on a single-member or, where necessary, by a plural-member ward by simple majority votes or on a hierarchy of majorities as the case may be;

(x) the election of councillors should be for a period of three years with all the councillors retiring at the expiry of that period;

(xi) the Elections Commission should be charged with the responsibility of conducting the elections.

COMPOSITION AND PROCEEDINGS OF COUNCIL

694. Having recommended Municipality and District Council, we think there should be some slight differences in detail between the two.

695. In our view the presiding officer of every Municipality should be termed as a Mayor. Not that the term Mayor has any magic appeal. It is a universal and a conventional term associated with local government. We should have that term within our framework as a coveted status to be aspired for.

696. The presiding officer of a District Council should be termed as the President. Both the Mayor and the President should, in our view, be elected for reasons which will be dealt with later. Apart from this and a few other minor differences, both Councils' proceedings should be the same.

697. We therefore recommend that:

(i) the Council of a Municipality should consist of—

(a) the Mayor;

(b) elected councillors;

(c) Municipal Secretary;

(ii) the Council of a District Council should consist of—

(a) the President;

(b) elected councillors;

(c) nominated councillors, if any;

(d) District Secretary;

(iii) the Mayor or President of every Council should be elected by and from among the councillors thereof by secret ballot and by simple majority votes;

(iv) the Mayor or President of each Council should preside at the Council meeting;

(v) where a Mayor or President is out of the country or is unable to be present for a reasonable cause or is precluded from the proceedings in any matter, the members of the Council should elect one from amongst themselves to preside temporarily as acting Mayor or President;

(vi) if any elected or nominated member of a Council should die or resign or otherwise cease to be a member, the vacancy caused thereby shall be filled within six months by a fresh election or by a fresh nomination as the case may be;

(vii) any person elected or nominated to fill a casual vacancy in a Council should hold office until the date on which the member thereof in whose place he is elected or nominated would normally have retired or his term of nomination would have expired;

(viii) the elected councillor of a Municipality and the elected and nominated councillors, if any, of a District Council should have the right to vote at a meeting of the Council;

(ix) the Municipal or District Secretary should have the right to participate in the proceedings of a Council but should have no voting right;

(x) the Mayor or the President should not ordinarily vote but where the votes are equally divided he may exercise a casting vote;

(xi) a member of a Council should not vote or be present at the discussions of any matter before the Council or a Committee thereof in which he has directly or indirectly by himself or by his partner any pecuniary or gainful interest;

(xii) the quorum for a Council meeting should be not less than one half of its members;

(xiii) a Council should meet not less frequently than once in a month;

(xiv) uniform standing orders and rules for the regulation of proceedings at the meeting of a Council should be made by the Ministry of Local Government for adoption by every local authority with the concurrence of its State Authority;

(xv) the Council should be responsible for all the activities for which the local authority is by laws responsible and answerable;

(xvi) any decision of the Council should be unanimous or by simple majority;

(xvii) provisions of Part IV of the Local Government Elections Act, 1960, which are not in conflict with the recommendations herein may usefully be incorporated.

POLICY AND ADMINISTRATION

698. Throughout our enquiry views were vehemently expressed about the necessity of having a clear-cut division between policy-making roles and administrative roles of councillors.

699. We heard evidence that there was a lot of interference by the councillors in the normal day-to-day administration of local authorities. It was reported that many councillors felt that they were at liberty to deal directly with heads of departments and in calling them to account for decisions made and action taken in regard to any particular matter. Councillors were also reported to have prevented officers from taking action to collect arrears of rates, and from instituting proceedings against the offenders for any breach of the laws or by-laws of the local authority. Numerous instances were quoted where councillors were purported to have told officers what form of technical advice they should give in respect of a particular application. That is to say, they would make it known to the technical officers whether they expected a favourable or an unfavourable recommendation in respect of a particular application. It was felt that councillors should purely confine themselves to "policy" making and should not be allowed to dabble in the field of "administration". Once a policy had been laid down by the councillors, it should be left to the administrative officers to implement that policy decision. It was pointed out in furtherance of this argument that Members of Parliament and State Assemblymen hardly ever interfered with the civil servants in the administration. This, in their view, was a proper and correct attitude that should be adopted towards matters of administration and that, since this was the case at the federal and state levels, it should be so at the local level of administration as well. In other words, in local government administration, councillors should deliberate only on matters of policy and leave the execution of the policy decisions made to the administrative staff of the local authority.

700. On the other hand, evidence was given that there must be some measure of participation by the councillors in the administration. In their view, there were very few matters of policy to be decided by the councillors and, unless councillors had some hand in the administration, it would not be meaningful or worth their while being councillors. It was their contention that the present system of the committees going through applications for licences, permits, etc., prior to approval by the full Council, should be continued. It would not do for the councillors merely to decide as a matter of policy that a certain number of hawker licences should be issued to persons on specified conditions, and leave it to the relevant head of department of the local authority to award the licences or permits. Having laid down the policy, can it not be expected that the decision to award a licence whether made by the councillors or the administrative heads come to the same thing? After all, are not councillors held responsible for all actions of a local authority? In the eyes of the public, the councillors were held equally

responsible for the actions of the administration. Since in the final analysis, the councillors were directly answerable for the actions of the administration, it would not be prudent for the councillors to leave the execution or implementation of policy decisions entirely in the hands of the administrative staff. Only if councillors had a hand in administrative functions, would they be in a position to explain to the public the reason for the approval or disapproval of an application for a particular purpose.

701. We heard yet other evidence from councillors that, although it was not their intention to be involved directly with the administration, nonetheless they should collectively as councillors exercise a supervisory role over the administration. Councillors should be entitled to see whether the administrative officers of the authority execute their duties properly and where this was not done, to instruct the officers how they should implement such policy decisions. The ratepayers hold the councillors responsible not only for the policy decisions they make, but also for the effective implementation of the policies by the administrative staff. Unless councillors have a supervisory role in the administration, the ratepayers' interests may not be safeguarded. The administrative officers of the local authority, being paid servants of the authority and not answerable to the electorate, could never be expected to be sensitive or alert to the wishes of the ratepayers, whilst the councillors, being popularly elected and being close to and constantly in touch with the people, were in a better position to appreciate and be responsive to public opinion, interests and expectations. It was for the councillors to ensure that the ratepayers were not exposed to the excesses of the bureaucratic and insensitive administration. They also pointed out that if the public were aware that the ultimate decision on any particular application would rest with the councillors as a whole and not with any particular officer of the authority charged with the execution of the policy decision of the Council, it would obviate the incidence of corruption as it would be easier to bribe a single officer than a whole Council or several councillors.

702. To this line of argument, we heard evidence that permitting councillors a "supervisory" role could well lead to abuses. Under the guise of only exercising a supervisory role, unscrupulous and unprincipled councillors could actually be interfering with the administration for political and personal ends. Furthermore, it was not correct to say that if councillors were to be the ultimate authority in making decisions on any particular application, there would be no room for corruption as it could well be that instead of approaching the officers for favours the public would now approach the councillors for such favours.

703. We are of the view that the words "policy" and "administration" or "execution" are not capable of any precise definition. These areas are often inter-linked and tend to overlap. To some, a particular matter would appear to be merely of an administrative nature, whilst to others, it would appear for reasons equally convincing that it was a matter requiring a policy decision. Only by a careful consideration of all the arguments relating thereto, can one come to the conclusion whether that matter was one requiring a policy decision or routine administrative action. On the other hand, a particular administrative issue may be charged with so much of political implications that it would not do to allow the administration to handle it independently. Again what might appear to be a special case to be dealt with by the administration could set in its wake numerous applications of a similar order. It must therefore be up to the administrative officers to carefully examine each issue, identify it to see whether it is a matter which they could

deal with or one that by its very nature requires a clear-cut policy decision and, if such be the case, to bring it up before the Council for a decision. Likewise, the councillors must carefully consider the problems placed before them for a decision and lay down clear and precise policies which can be implemented by the administrative staff of the authority with the minimum of supervision. As councillors must be held responsible for the overall actions of the authority, they should keep themselves well informed of what is being done by the administrative staff of the authority and, from time to time, request for and be entitled to obtain progress reports from each of the divisions in the local authority. More specifically, councillors should require the principal officers of the authority to submit reports of actions taken on any matter on which a decision has been made and it would be up to the principal officers to ensure that the councillors are at all times kept informed of the work and progress of the division under their control.

704. Taking all the arguments into consideration we are of the view that some positive attempt should be made to introduce separation of powers between the councillors and the administrators. We are aware of the difficulties involved in drawing a clear line between the two.

705. Before we attempt to do that we may ask the question, is such a separation of powers absolutely necessary? A local authority is essentially a body for management of services. The accent is generally on management rather than administration. It is not strictly a government in the sense of the State or Federal Government. Then why should not the councillors take direct interest in the execution of their decision?

706. These questions have a valid relevance to the present system of local government which is essentially based on the British pattern. It was a system introduced in the last century when social communities were cohesive and small. The local authorities too were small and it was rightly considered suitable for the councillors to decide and to participate in the process of implementing their decisions. But now the situation has greatly changed. Social communities have been replaced by anonymous urban communities with cells of functional interests. Physical planning has been demanding deliberations and decisions on a wider scale. As has been stated earlier, local government has been growing in spatial dimension throughout the world. It is in this context and primarily having regard to our own circumstances that we have recommended large territorial units with enlarged Councils. With a wider area and a larger population and increased scope of services the Councils of future local authorities will have matters of wider importance to deliberate on and decide. No longer will they be limited to tiny areas and rudimentary sanitation services. Their scope of services will be greater, often calling for policy decisions. The councillors will be required to analyse regional problems, identify them and set overall objectives to be achieved. They will have to determine the priorities between the objectives and the means to achieve them. They will have to give general directions in regard to the affairs of the local authority and exercise general control over it. Even if a routine matter is of a public or political importance, they should scrutinise it when it is found necessary that a question of policy may be involved. Otherwise the councillors should leave such matters to the administrators. Another major responsibility of the councillors is to review the progress and performance of the authority and formulate fresh policies in the light of experience gained. There will therefore be many matters of policy for the future Council to engage itself and if it does it diligently it will

have more than its hands full. A Council should be more concerned with the general objectives and planning for development and improvement. It should not be bogged down by routine day-to-day matters as at present.

707. For its part, the administration should be directly engaged in carrying out the decisions of the Council and the day-to-day services. The principal officers of the administration should carry out their routine work of inspection and control of their staff and decide on day-to-day matters. They should submit to the councillors periodical reports of the work of their respective departments through the Secretary to the local authority so that the councillors may scrutinise them and formulate policies, determine objectives and the means to achieve them. When the principal officers sense that a routine administrative decision on a particular case may have a political or public significance, they should refer such a matter to the councillors to see whether they merit the formulation of a new policy.

708. We therefore recommend that:

(i) in ascertaining the responsibilities of the Council there should be a flexible division between matters of "policy" and "administration";

(ii) the Council should confine itself to matters of policy;

(iii) generally, matters of routine administration should be the overall responsibility of the Municipal or District Secretary;

(iv) in deciding what is a matter of policy, the following criteria may be applied—

(a) identifying the problems and the setting up of overall objectives of the authority;

(b) decisions on the objectives and the order of their priorities;

(c) means and plans to attain the objectives;

(d) direction and control of the affairs of the authority;

(e) scrutiny even of a routine administrative matter if it is one of political or public significance to ascertain whether it involves a matter of policy;

(f) periodical review of the progress and performance of the authority and decisions thereon;

(v) what is a matter of administration may be decided by applying the following criteria—

(a) day-to-day administration of services, decisions on case work and routine inspection and control, should be the responsibility of the officers;

(b) preparation and submission of periodical reports and advice on staff work by officers so that the councillors may set the objectives and take decisions on the means of attaining them;

(c) identifying and isolating any specific problem or case which in the officer's view and from his knowledge of the minds of the councillors, has such policy implication that the councillors may wish to consider and decide on it.

MAYOR/PRESIDENT

709. In the present system the elected President or Mayor of a Municipality is the executive head of the authority. His position is partly akin to the strong-Mayor system in the United States. In the case of a Town Council, if its President is nominated, he is the executive head of the Council. If, on the other hand, he is elected, the Secretary to the Council is the executive head. The elected President of a Town Council, therefore, is more like a weak-mayor of the United States and the Secretary of the Council can be in several respects compared with the Council-Manager in that country.

710. During our enquiry, it was often pointed out that one of the main causes of the ills of the local government system in the country was the executive responsibility vested in an elected President/Mayor of a Municipality. It was said that such executive heads were politically motivated and were often partial in their acts. Allegations of favouritism to party members and nepotism were generally made against them. It was recommended that in order to avoid such malpractices, Presidents or Mayors should be appointed by the Government so that there would be impartiality and fair play. As against this, it was argued that it would be undemocratic to have appointed Presidents or Mayors, and that the councillors should be allowed to elect their own Presidents or Mayors. It was also pointed out that nominated Presidents or Mayors would not necessarily turn out to be paragons of virtues or embodiments of efficiency, and that having been appointed they would not be sensitive to public opinion and would not consider themselves answerable to the electorate.

711. One point we would like to dispose of instantly. Having a nominated Mayor or President cannot be said to be a negation of democracy. There are democratic countries where Presidents or Mayors are appointed by the superior governments. Netherlands, for instance, is a case in point where the Burgomaster or Mayor of a Municipality is appointed by the Crown for a six-year term of office. Although the Burgomaster is appointed as an agent of the central government, his loyalty is to his Municipality for which he is the main spokesman *vis-a-vis* the central government.

712. Having considered both the arguments, we are of the view that both the proposed Municipality and the District Council should have the Mayor and the President elected from among the Council members respectively. They, however, should not be the executive heads of their respective authorities. Executive responsibility should be vested in the hands of the Secretary to a Council, about whom we shall discuss later.

713. The Mayor and the President should preside over their Council meetings and on matters of procedure they should take the advice of the Secretary to the Council. Besides discharging their Council duties as presiding officers they should serve as the ceremonial representatives of their local authorities. In view of their prestigious position they should discharge their duties in a dignified and impartial manner.

714. We are also of the view that the Mayor and the President should be elected on a yearly basis. The reason for this is that as far as possible councillors who are suitable for the role should be given opportunities so that the dignity of the office may be shared with other councillors on a rotation basis and that no one person need hold the office for the full term of the Council, unless the councillors prefer to re-elect him.

715. **We therefore recommend that:**

(i) a Mayor or President of a Council should hold office for a period of one year and should be eligible for re-election for a second or third year of a Council's term;

(ii) where a Council has nominated members, its President may be elected from amongst them;

(iii) the Mayor or President should be the ceremonial head of the local authority and play the role of first citizen in the district. He should be empowered to receive and entertain dignitaries from the State or Federal Government or at the request of the State Authority and dignitary from abroad;

(iv) he should preside over the full Council meeting and in matters of Standing Orders governing the procedure of the Council he should act on the advice of the Secretary to the local authority;

(v) it should be laid down in the law that in discharging his duties both in and out of the Council he should act impartially and in a non-partisan manner befitting his status as the first citizen of the district;

(vi) a proper robe and a mayoral insignia should be conceived in harmony with the traditions of the country and produced on a standard pattern for all the Mayors in the country.

COMMITTEES OF THE LOCAL AUTHORITY

716. At the outset it might be useful to have some general understanding of the principles and practice relating to local government committees in other countries. According to Wheare, "a committee is a body to which some task has been referred or committed by some other person or body. It may be asked or required or permitted to carry out this task. But that is not all. The notion of a committee carries with it the idea of a body being in some manner or degree responsible or subordinate or answerable in the last resort to the body or person who set up or committed a power or duty to it. There is inherent in the notion of a committee some idea of dependent status, in form at least; it lacks original jurisdiction. It acts on behalf of or with responsibility to another body".[1]

717. A local government committee is generally created for the following reasons:

(i) it provides popular participation in the affairs of a local authority. This is more so where a committee is composed of elected councillors and co-opted members of the public representing heterogeneous public interests as in many of the small local authorities in the United States;

(ii) it enables councillors to have a division of labour and to take specialised interest in a particular service or services;

(iii) it enables a more informal procedure on a give and take basis in discussing and deciding matters without the glare of publicity and with greater privacy than is normally the case in a full council;

(iv) it reduces the workload of a full council and enables it to concentrate on important policy objectives;

[1] Wheare: Government by Committee, pp. 5-6.

(v) its need is particularly greater when a council has a large membership, as the large size of a council is not conducive to the consideration of administrative details and routine day-to-day matters.

718. There is no particular criterion in determining the desirable number of committees. In England where the committee system has been popularly developed, its number has increased to an unwieldy extent. Some large local authorities in England have as many as 25 to 30 standing committees and also several *ad hoc* or special committees. In some English municipalities with a very large population there are as many as 30 committees. It is also not uncommon to have sub-divided committees of sub-committees. On the other hand some large urban municipalities in the United States provide the other extreme. These municipalities have small councils and they manage without any committee at all.

719. Sweden is unique in relying on the excessive use of administering and advisory committees. It is common for a moderate size municipality to have as many as 40 committees. The tendency to have more committees has increased since the war. Local government in Sweden can be fairly described as government by committee. The practice of associating outside experience in the committee work is an impressive feature of local government in that country. This is done by appointing suitable non-council members into the various committees. For instance, a town with a population of 70,000 may have a council of 60 elected members. The council may appoint two, three or even four hundred non-council members to serve on the committees. Such non-council members are usually selected by political parties. Even officials in few cases serve on committees with a right to vote. In many committees elected councillors are in the minority. For instance the education committee at Gavle has eleven members, eight of whom are co-opted. Generally, the Swedish committees are small with about twelve members.

720. At this stage it may be useful to illustrate the types of committees that are normally established in connection with the management of local government.

Types of Committees

721. *Standing and ad hoc Committees.* As to the duration of a committee, it may be a standing committee in which case it is set up on a permanent basis. Conversely it may be a special or *ad hoc* committee in which case it is appointed for a particular purpose or on a special occasion. When a special committee has completed its work it becomes *functus officii*. Such a committee is normally appointed by a Council to investigate a particular proposal such as the introduction of a new service or a development project or an alleged act of malpractice by a department of the Council. A standing committee, on the other hand, is appointed to be responsible for a regular function such as housing or health or traffic control and the like on a continuous basis.

722. *Compulsory and Optional Committees.* Compulsory committees are statutory committees. When a statute requires a committee to be constituted, such a committee may be termed a compulsory committee. In England, for instance, a County Council or a County Borough must appoint a health committee under the National Health Services Act, 1946, a Children's Committee under the Children's Act, 1949, and an Education Committee under the Education Act, 1944. It is to be noted that such committees are required to be established by different statutes through which powers are delegated to local government to provide services. In the case of a Swedish town where committee

organisation has been streamlined, the law requires compulsory committees to provide services such as child welfare, home welfare, education, town building and town planning, public health, fire service and so on. Such a Swedish town, however, may also set up optional committees for youth, young children's library, parks, sporting grounds and the like. Optional committees may be set up at the discretion of a local authority and in most cases committees are optional.

723. *Vertical and Horizontal Committees.* In terms of responsibilities a committee of a local authority may be vertical or horizontal in character. Most committees are appointed for a particular purpose or function such as public health, housing or traffic control. As a rule, these committees work in close liaison with the respective departments that provide the services. For instance, a health committee will have to work closely with the health department. A committee of this kind is often called a "vertical committee". On the other hand, there are committees which may have connection with all the departments. Such committees may be in charge of finance or personnel management of a local authority. For instance, a committee on finance will have to have knowledge of the financial matters of all the departments. Then only will it have a comprehensive knowledge to make overall financial evaluations and specific allocations. In other words such a committee is in a position to co-ordinate the financial activities of all the departments. A committee of this type is called a "horizontal" committee. By reason of its horizontal responsibility the finance committee is often in a more influential position than other committees. It is because of this importance that finance committees have been legally constituted as boards in the local authorities of Scandinavian countries; in other countries it is like any other committee of a local authority though its importance is generally recognised.

724. There is no standard or universal pattern in the establishment of committees. Most local authorities usually have "vertical" committees in charge of particular functions. Where a local authority manages its affairs through committees, it is generally the practice, except in small local authorities, to have a horizontal committee with some degree of co-ordinating responsibilities.

725. *Administering or Advisory Committees.* Committees' powers may be to administer the functions allocated to them or merely to advise the council in respect of their functions. Outside the Anglo-Saxon, Scandinavian and East European countries, local government committees are in the main advisory in their capacity. In Ireland the committee system in the English sense has long disappeared as a result of the introduction of the manager system. Apart from the statutory or compulsory health committees even the advisory committees appear to be on their way out. The Irish advisory committee generally formulates policy recommendations for the consideration of the full council, as in Dublin, or merely forwards its views to the manager who in turn formulates policy recommendations for the council.

726. In Germany the committees are generally advisory in their capacity. They do not indulge in day-to-day routine work of the executive nor are they permitted to interfere with the responsibility of the executives in giving effect to the council's decisions. They are not the hub of the administration as the committees in England are, nor do they clog the wheels of administration by making exacting and unreasonable demands on the members' time as such committees do in England. In France too the advisory capacity of a committee is a common feature in a local authority with a large council.

727. Generally, the chief functions of an advisory committee are to prepare policy recommendations by reviewing the progress or non-progress of the department that renders the service for which it is responsible by hearing views from the public who wish to be heard in relation to its services, by inquiring, studying and analysing the problems in respect of its service, and by arriving at decisions for recommendation to the council. It is not the duty of an advisory committee to supervise the implementation of its council's decisions. The work of implementation is left in the hands of the principal officers.

728. In considering the capacity of an administering committee it will be useful to note whether it works under a unitary or single executive or functions as a plural or collective executive. In local government administration there are two schools of thought as to who should have the overall responsibility for the implementation of a council's decision. One school prefers to leave it to an individual such as a strong mayor or a council manager. In this case, the individual concerned will be a unitary executive. The other school advocates a group or groups of individuals to be responsible for overall or diffused administration, such as the administering committees or a single executive committee or a management board. In any of these cases the committees or board concerned will be a plural executive.

729. As stated earlier, the administering committee system is commonly used in the Anglo-Saxon, Scandinavian and East European communist countries. In India, Sudan and other Commonwealth countries the administering system of committees has been introduced by the British administration during the colonial era.

730. An administering committee does what its name implies. It administers by implementing its decisions or the decisions of its council. It formulates policies for the consideration of its council. It closely supervises the department which carries out the service for which it is responsible. Unlike an advisory committee an administering committee takes a lead in initiating proposals for the consideration of its council. Normally an advisory committee considers and advises on matters which had first gone to the council and which were subsequently referred to the advisory committee for advice. But in the case of an administering committee, matters are generally referred to it first before they are sent to the full council. The reason for this is partly due to the procedure adopted in referring matters by the principal officers. Where there is an administering committee the principal officers normally first refer a matter to it for comment. After consideration and comment or recommendation by this committee the matter may be sent to the full council through a management board if there is any. On the other hand if the committee is advisory only, the principal officers generally refer a matter first to the management board, if there is one, or to the full council. From either of these sources—the full council or management board—the matter may then flow to the advisory committee for its consideration and advice.

731. It is not unusual for administering committees to be given powers to make decisions and to act upon them without first obtaining the approval of the full council. Such powers are usually given by the council to the administering committees in respect of routine or less important matters about which the council might have made a general decision empowering the administering committees to decide and act as circumstances require. Similar powers are also given to administering committees to decide and act in emergency situations. Generally, expediency and the reduction of the workload of the full council are the reasons for this delegation of powers.

732. In the light of the above, the real difference between an advisory committee and an administering committee should be clearly noted. In the case of an advisory committee it merely advises. Its work is preparatory in nature. It does not decide. Nor does it participate in implementation. An administering committee on the other hand, does both preparatory work and participates in the process of implementation. It is important to keep this distinction in mind.

733. Under the English system of local government, its committees are administrative in their roles. They have wide powers in formulating policy and in deciding how they should be implemented and often they participate in the implementation process itself. It is for this reason that it is said the English local government is a government by committee. "It is in the committees of a council" says Laski "that policy is really made; it is in these committees, also, that the supervision of its execution is really effected".[1]

734. In countries where the committees are administrative in nature their roles are subject to the review of the full councils and also by higher bodies. In England the interested ministry may review the decision of such committees in respect of deconcentrated powers. In Sweden the departments of the Central Government exercise review of the work of such committees. In the East European communist countries the actions of an administering committee may not only be reviewed by its full council but also by the counter-part committee at its next highest level. In other words they have a double check both by the full council or the management board and by the counter-part committee at the immediately higher level.

735. One of the chief weaknesses of the British system is the lack of effective co-ordination between the various administering committees. They do not have the management board system as found in other European countries. Such degree of co-ordination as is needed is usually provided by the finance and general purpose committee. But the Finance and general purpose committee is normally a committee amongst equals and therefore does not enjoy the effective overall control of that of a management board, about which we shall discuss later.

736. We have so far considered generally the nature and powers of the committees of a local government. As committees are an important practical feature of local government it is very necessary to have a full understanding of the principles connected with the basis of their creation and the practical aspects of their roles. It is for this reason that we have so far dealt with the theoretical and practical aspects of local government committees.

737. In so far as West Malaysia is concerned we have generally adopted the English committee system. Let us now broadly consider our system. Every elected local authority has a council as in the case of a Municipality or a Town Council or a Local Council. Every non-representative local authority, e.g., a Town Board has a board to manage its affairs. Whether a local authority has a council or a board it is a common feature to have various administering committees, e.g., Town Planning and Building Committee,

[1] Laski, Jennings and Robson: A Century of Municipal Progress, p. 82.

Traffic Committee, Health and Welfare Committee, Assessment Committee, Finance Committee, Establishment Committee and the like. Normally these committees consist of council members and the relevant principal officers of the local authority. For instance, in the Health Committee the local authority's Health Officer is an important member. It is not unusual for representatives of specific public organisations to be co-opted as members into some of these committees.

738. Though a council is the overall deliberative and administering body, it has become the traditional practice for a council to delegate some of its administrative functions to such committees. The various local government legislation do not enumerate the required number of committees or all the administering functions for which committees should be appointed. These are left to the discretion of the councils of individual local authorities.

739. Whatever may be the number of committees preferred by a local authority, every committee is directly answerable to the full council. A committee's function is administrative and its decision or recommendation has to be ratified or accepted by the full council in most matters.

740. The original purpose of these committees was to enable citizen participation in a local authority's administration and to ease the workload of the full council. For more than 50 years, England has taken pride in her committee system of local government. As stated earlier it is still widely relied upon in that country. The system has also been transplanted in many Commonwealth countries including Malaysia.

741. In these countries the committee system has been sustained on the belief that the more committees a local authority sets up the more participation will it give to councillors and co-opted citizens in its decision-making process. The accent of participation has been more on democracy than efficiency. This might have been suitable and even necessary in the simple and *laissez-faire* days when the role of government was essentially one of maintaining law and order. But now the situation has changed with local authorities assuming wider and more complicated functions.

742. Even in England where the committee system has taken a deep root, its efficacy has been challenged in a radical way. The Maud Committee on the Management of Local Government has made a major assault on this system. It does not advocate the abolition of the system but assigns an advisory role to the committees with a view to promoting efficiency in local government management. The weakness of the present administering committee system has been stated in unmincing terms by the Report of the Maud Committee. It says that the administering committee system "has its roots in nineteenth century respect for democratic forms and in the old tradition of direct and detailed responsibility of local leaders for local affairs". It recognises that the system was suited to a time when the range of activities of a local authority was limited, when government involvement in the affairs of society was minimal, and when few professional staff were employed. It would be useful to reproduce here its indictment on the present role of the local government committees in England. It states:

> "The virtues of committees are, at present, outweighed by the failures and inadequacies of the committee system. The number of committees has grown with the addition of new services for which local authorities have been made responsible. The work of departments grows more complex, partly as a result of scientific and technological development, and partly because

> the scope of the services is extended through public demand and national policies. It becomes increasingly difficult for committees to supervise the work of the departments because of the growth of business, lack of time and the technical complexity of many of the problems. The system wastes time, results in delays and causes frustration by involving committees in matters of administrative detail. The system does not encourage discrimination between major objectives and the means to attain them, and the chain of consequential decisions and action required. We see the growth of business adding to the agenda of committees and squeezing out major issues which need time for consideration with the result that members are misled into a belief that they are controlling and directing the authority when often they are only deliberating on things which are unimportant and taking decisions on matters which do not merit their attention. The system involves the production of an increasing volume of paper which demands staff, is often wasteful of officers' time, is expensive to produce, and which often overwhelms members. It discourages delegation of responsibility to officers. The committee system makes heavy demands on members' time. It discourages the type of person from serving in local government who is prepared to give time to the consideration of major issues but who is not prepared to spend it on matters which specialist staff should deal with themselves.
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> The association of each service with a committee, and of a department and a principal officer with both, produces a loose confederation of disparate activities, disperses responsibility and scatters the taking of decisions. It is often unintelligible to the public. Leadership and responsibility in the authority cannot be easily identified and co-ordination of thought and work is made more difficult." [1]

743. The Maud Committee recommends that committees should be used to enquire, discuss and recommend. It says committees are unsuitable to attend to matters of administrative detail and to handle what is known as "case work", i.e., in dealing with social, health, housing and matters affecting individuals. In its view, these are matters which should be handled by regular officers with a committee having the right to review the work of the officers.

744. Are the above criticisms applicable to the committees of local authorities in our country? We are of the view that they are applicable to a large extent. The weaknesses of the committee system have been highlighted in the Reports on the City Council of George Town and the Town Council of Seremban. Dato' Justice Abdul Aziz bin Mohd. Zain, Chairman of the Commission of Enquiry to enquire into the affairs of the City Council of George Town in his Report questions the wisdom of having so many committees and refers to the "inevitable delay" and "wasted efforts" caused by the committees of the council. He also graphically describes the "farcical arrangements" in dealing with a particular committee's functions. He criticises the need for eleven Standing Committees in a Council of fifteen elected members and says:

> "We were told that there were other Standing Committees of the City Council with somewhat similar composition, with which we are not really concerned. When one considers that there were only fifteen elected councillors in the City Council, one could well say that the City Council was purposely creating unnecessary work for the councillors instead of endeavouring to achieve maximum efficiency at minimum cost. If the excuse was that as many of the elected councillors as possible should be associated with the various functions of the Council, then the logical step should be to abolish the Committees altogether and use the whole Council. An illustration of this farcical arrangement relates to one of the most important functions of the Council, i.e., control of building and building operations. We were told that all applications for building approval—whether or not the plans were prepared by architects—were first processed by the officials, namely, the City Architect and/or the City Engineer (as required by Section 144 of the Municipal Ordinance) who examined the plans and specifications purely from the technical angle to see that the plans complied with the Ordinance and the Building

[1] Committee on the Management of Local Government. Volume 1, Report of the Committee. (London, Her Majesty's Stationery Office) pp. 35-36.

By-laws. Depending on the nature of the application, some applications would be considered by a committee of officials, i.e., Town Planning Sub-Committee or the Traffic Planning Sub-Committee before submission to the Committee or Committees of Councillors. If it involved traffic, then the Council Traffic Committee would deal with it before the Town Planning & Building Committee, who would then deal with the layout and building plans. If this Committee approved the site plan, confirmation or ratification by the full Council would be required before the approval could be conveyed to the applicant. After the site plan had been approved, the building plan would again have to go through the same routine: firstly, to be dealt by the Town Planning & Building Committee and, subsequently, by the full Council before the approval of the building approval was conveyed to the applicant. Forgetting for a moment the other approvals that might be required in relation to a new building, i.e., roads, drainage, sewage, water supply, electricity supply, which presumably had to be considered by other committees, it could be seen that the same set of councillors would be dealing with the same matter on at least three or four different occasions before a final decision was made. The inevitable delay and wasted efforts directed towards consideration of extraneous objects and placing false values thereon as was illustrated to us in one or two instances bring to mind an old satire—

"Interpreting the simplest symbols wrong, missing the gold and treasuring the tin, dwelling upon the trivial too long".

The multiplication of work and delegation of functions—far from producing efficiency—had caused unnecessary delay and inconvenience to the public, and worse, had provided excellent opportunities for corruption."

745. The Report of the Commission of Enquiry to enquire into any incidents of maladministration of and malpractices in the Seremban Town Council conducted by Mr Justice Lee Hun Hoe makes a number of references which clearly show the weaknesses of the administering committee system of a Town Council. It also reveals other weaknesses to which a Town Council is generally exposed.

746. In one case, Mr Justice Lee Hun Hoe has recorded his finding that in approving a building plan for 64 houses, the President and a Councillor of the Seremban Town Council "were interested in the payment (by the developer) of the sum of $10,000 to be shared among controlling councillors". The developer "had promised to make such payment in consideration of having his building plans approved by the Council". The plan was duly approved by the Plans and Town Planning Committee and eventually by the Council. Apart from the $10,000 aforesaid the President was "in addition personally interested in obtaining $2,000" from the developer. Though the Plans and Town Planning Committee and the Council had approved the plans, they were left unsigned by the President of the Council. Evidence was given to the Commission that the plans remained unsigned because the developer "could not give the money" to the President.

747. In another case the Judge had found that a Councillor and President of the Council wanted a developer to pay $6,000 to be shared among Councillors in consideration of having his plans for 26 houses approved by the Plans and Town Planning Committee. It was stated in evidence that though the State Planning Officer had approved the layout plan it was not placed on the agenda for the next meeting of the Committee. The developer agreed to pay the sum of $6,000 upon his plans having been approved. Eventually the plans were passed by the Committee. When the developer was asked for the money after the approval of the plans by the Committee, he said "he would pay when the full Council passed the plans". The Councillor concerned "was annoyed saying that he (the developer) did not keep his promise and he (the Councillor) would see to it". The end result was that the full Council rejected the plan though approved

by the Committee. The developer told the Commission "that since his plan had not been approved he would lose a considerable sum of money because of agreement he had with others".

748. In another case, the Judge had found as a fact that the Vice-President of the Council had accepted a cheque for $2,000 from a developer in consideration of the approval of the latter's layout plans by the Plans and Town Planning Committee. The developer in his evidence to the Commission said that he had paid the money to the Vice-President informing him "to pass it to the President". The following day the developer was informed "that the Plans Committee would not pass his plan unless he paid $8,000". It is interesting to note what the developer said about his conversation with the President of the Council. In his evidence the developer said that the President of the Council spoke to him as follows:

"You are a businessman. I am a businessman. None of us gets any salary. By making terrace lots you are going to make a lot of money. Plans Committee could not approve the plan unless something was done."

The Judge's finding is worth quoting. He says:

"It would appear that the Plans Committee wanted more detached houses to be built and therefore decided to refer the plan to the State Planning Officer for amendment. The layout plan was drawn by an expert who had been to the site with the Town Council Engineer The Town Council Engineer stated that the plan was a proper development plan for the town. He thought the plan could be passed with slight minor amendments only. Despite the opinions of those who appear to know more about the technical details of the plan, the Plans Committee thought fit to decide otherwise. The point is that the Plans Committee had not produced any good reason to refer the plan back to the State Planning Officer for amendment."

749. The above instances have been cited to show the extent to which malpractices can be resorted to by the Planning Committee of a local authority. Of all the committees of local government the Planning Committee appears to be the most susceptible to malpractices. The members of this Committee play an influential role. During the past few years and particularly since Merdeka, urban developments have been generally impressive. There has been a building boom in many towns. Millions of dollars have been invested into housing and building projects of various dimensions. Approval of building plans is the responsibility of local authorities. Under the present administrative structure of local authorities, a building plan first has to be approved by the relevant committee, usually known as the Planning Committee. Then the plan with the recommendation of the Planning Committee is referred to the full Council for its approval.

750. Approval of a building plan is an administrative task. Before the committee can approve a building plan, its layout plan has to be approved by the Planning Officer. The architect for his part has to approve the building plan. On the structural aspect of the building, the Engineer is required to give his approval. All these are technical matters which can only be evaluated completely by qualified officials. These are not, and indeed cannot be, the task of laymen.

751. In the name of participation political laymen have been sitting in various committees of local authorities such as the Planning Committee and have been approving or disapproving applications some of which are technical and others less technical. In addition to assessing applications of a technical nature for which they are unsuitable, they have been performing administrative functions which should have been the work of the officials.

752. Are councillors competent to indulge in administrative matters? In our view they are not. Most of the troubles that had arisen in the Municipalities and Town Councils that have been taken over by the State Authorities were mainly connected with the councillors' maladministration or malpractices in discharging their administrative functions.

753. In our view, administrative participation by councillors is not merely unsuitable but also undesirable. The country's circumstances do not permit administrative participation by councillors, which has its root in the history of local government in England and which is now being considered unsuitable even in that country.

754. Comparatively speaking, elective government is a new institution to our people. They have not had a long tradition of local government participation. Elected councillors are mainly politicians many of whom understand very little about administration or administrative ethics. Having been elected they find themselves to be in positions of power to approve or disapprove applications. When such applications are connected with large investments, some of them may become more conscious of their power and easily lend themselves to malpractices and corruption.

755. Regrettably, the Asian attitude to corruption is another unhelpful phenomenon. Generally, Asians still do not fully comprehend the ethics of a public servant or public administration. Many members of the public do not feel a sense of wrong or impropriety in offering bribes to public servants so long as they can get their work done. Some even consider that giving a reward to a public servant in power is an act of reciprocity, a *quid pro quo* business. In an atmosphere like this it is not easy for a public servant to withstand temptation when it is placed before him. Having regard to human frailties, it needs a strong character and an abiding faith in the ethics of public service to confront and overcome a luring and handsome temptation. If this were the case to a regular public servant, what more to an elected councillor? Though technically a councillor is a public servant he seldom regards himself as such. To him his council role is only a transient phase. To an unscrupulous councillor his term of office would present itself as a golden opportunity to make as much as he can. The opportunity may not come a second time. The element of fear may be less in a councillor than in an officer. If an officer is caught for a corrupt practice it will be ruinous to him. He will lose his employment and all accrued benefits in the service. If a councillor is caught for a corrupt practice he does not stand to lose as much as an officer. His reputation will no doubt be affected and he may lose his council seat but may or may not be affected in his avocation. So the risk in receiving bribes is greater to an officer than to a councillor. Even if a councillor or an officer wants to go straight, there are always businessmen who have no patience for bureaucracy and have no time to waste in making money. They are always ready and willing to corrupt councillors and officers to get their applications approved without hitch or delay. To them, payment of bribes is an accepted part of business risk and commitments. When corruption becomes rampant it begins to eat into the vitals of democracy. People start losing faith in elective representation. Their beliefs in democratic institutions get eroded. Ultimately, democracy by its own weakness might destroy itself. This has happened in other countries and particularly in newly emerging countries.

756. In a situation like ours it is important to remove as far as possible temptation from the paths of the councillors. To save democracy and to promote clean politics, excessive powers should not be placed in the hands of the councillors. Placing administrative powers in their hands has been one of the root causes that has led the way to the suspension of Councils and to the appointment of this Commission. In a way the country is fortunate in learning from the mistakes made by the hurried introduction of the administering committee system of local government in this country.

757. We are therefore of the view that the committees in local authorities should be advisory and not administrative in discharging their duties. Committees should consist of elected councillors and co-opted prominent members of the public. Bringing in suitable persons into such committees is nothing uncommon even in well-established democratic countries. In fact, in many local government committees in the United States there are no council members. In the United Kingdom up to one-third the membership of most committees which have administrative powers may have nominated non-council members. Mention has been made earlier about Sweden. The purpose of bringing in persons from outside is to widen the scope of participation and to have the advisory benefit of knowledgeable and experienced persons in specialised fields.

758. One of the new functions that we consider necessary for the committees is that they seek the views of the public and interested bodies from time to time in respect of the purpose for which they are constituted. In other words, on any new service or project or any matter that may be controversial the committee concerned should conduct hearings of interested persons and bodies. Such hearings should be open to the public and the press so that general and articulated interest can be created on the subject before the committee. Open hearings will no doubt be important sources of public participation in the affairs of the local government.

759. Our present laws do not stipulate the desirable number or types of committees. Powers are given to the councils to appoint such number and types of committees as they may consider necessary. We are of the view that the number and types of committees should be kept to the minimum. It is not necessary to have a committee for every service. Related services may be conveniently grouped under one committee. Since the committees are to be advisory only, they will need adequate work to formulate policies and to suggest ways and means to improve the services.

760. We are also of the view that it is not necessary to provide in the law the classification of committees into compulsory and optional. This should be left to the discretion of each local authority. But we consider it important that there should be no proliferation of committees. In our view the following committees may be set up to serve the needs of a local authority:

(i) *Planning and Development*—These may include—

Urban and rural housing,

Urban and rural planning,

Urban renewal and rehabilitation,

Rural rehabilitation,

Phasing in-migration of people from rural into urban areas.

(ii) *Health and Welfare*—These may include—
All health services—public and individual,
All welfare services, e.g. disabled persons, control of vagrants and illegal hawking, etc.,
Cattle control in urban areas,
Protection against food adulteration, etc.

(iii) *Culture, Youth and Recreation*—These may include—
Youth services,
Sports, games, etc.,
Library,
Maintenance of historical scenic spots and health resorts,
Tourism.

(iv) *Finance and Establishment*—These may include—
All matters of revenue and expenditure,
Interviewing and selection of employees for approval of the Council,
General service matters.

(v) *Agricultural and Community Services*—These may include—
Model farms,
Veterinary matters,
Supply of seeds and fertilizers,
Gotong Royong services.

(vi) *Roads and Works*—These may include—
Urban and rural roads,
Generally all engineering works,
Control of traffic.

761. Standing orders governing the procedures of the committees should be prepared by the Ministry of Local Government for the use of all committees throughout West Malaysia.

762. It is to be noted that even the Maud Committee on the Management of Local Government has strongly advocated the need of reducing the number of committees and has suggested six committees, namely, Planning and Development, Housing, Works (including highways and traffic), Education and Culture, Health and Welfare, and Public Protection. Further, in a large city like Dublin there are only five standing advisory committees covering most of the major operations. Each of the committees has eighteen members. One looks after finance and other smaller services; another deals with legislation and elections; the third manages planning and engineering services; the fourth deals with housing and the fifth is the cultural committee responsible for libraries, museums, galleries and scholarships.

763. We therefore recommend that:

(i) the Council of a local authority should from time to time determine the number and types of committees for specific services provided in the Local Government Act;

(ii) committees should not be concerned with executive responsibilities. They should not be directing, supervisng or controlling bodies nor should they be concerned with routine administration;

(iii) no committee should have more than eleven members including co-opted members;

(iv) in every committee, not more than one-third of the members should be co-opted from among suitable citizens of the district;

(v) on the recommendation of the Secretary, the Management Board should be empowered to appoint the required number of councillors and suitable citizens to serve on the committees. The names of the members of the committee who are finally selected should be tabled at the next meeting of the Council for the Council's confirmation. In every committee both the councillors of the majority and the minority parties should be appointed in approximate proportions to their strength in the Council;

(vi) the Chairman of every committee should be a Member of the Management Board;

(vii) it should be a regular and important feature of a committee to hear views of the public and interested bodies, and to gather public opinion from time to time in respect of the functions for which it is responsible;

(viii) any member of the public or a public organisation wishing to be orally heard should be given the opportunity of being heard, provided the committee is first satisfied that the matter for which the hearing is sought is relevant to its function and that the hearing might be in the public interest. Such hearings should be open to the public, press and other mass media;

(ix) a member of the public who wishes to be heard may appear personally or through his solicitor. Likewise, a public organisation may appear through its representative or its solicitor;

(x) a committee's role should be deliberative and representative in the sense that—

(a) it considers the interests, reactions and criticisms of the public in respect of its particular function and conveys them to the Management Board;

(b) it considers any matter raised by its own members in respect of its function or referred to it by the Management Board;

(c) it makes recommendations to the Management Board on the major objectives of the authority in respect of its function and studies and recommends the means to attain the objectives; it examines either new ideas of its own or those presented to it by other public bodies in respect of its function;

(d) it reviews periodically the progress on plans and programmes of the authority in respect of its function in the same way as the Management Board does for the whole range of services of the local authority.

(xi) no committee should take executive decisions in any matter except at the express requirement of the Management Board. In such a case, the extent of decision-making by the committee should be strictly defined by the Management Board and it should be made clear that even then the committee should only issue to the head of department instructions on such matters through the Management Board;

(xii) the number of committees to be constituted should be kept to the very minimum and wherever practicable and expedient similar or related services should be grouped and allocated to one committee;

(xiii) there need be no express provisions in the law requiring the establishment of specific committees.

MANAGEMENT BOARD

764. We have considered the roles of the committees of a local authority and have recommended that they should be advisory in their capacity. We have also recommended that the committees' recommendations and proposals should flow through the Management Board to the full Council.

765. What will be the responsibility of a Management Board? Why will it be called management as distinct from administration? Who will be the members of this Board? How will it work? These questions should be answered to have a full understanding of the functions of the Board.

766. At the outset we have to state that it is an innovation drafted into the managerial structure of the proposed local authority. Hitherto, a local authority in West Malaysia did not have a Management Board as such. A Management Board, in effect, will be the horizontal co-ordinating committee. We have not called it a committee in order to distinguish it from other committees. Its main tasks may be enumerated as follows:

(i) it will serve as a bridge between the Council and the committees;

(ii) it will interpret the Council's decisions to the committees and to the principal officers and any proposed policy recommendation of the committees to the Council;

(iii) it will co-ordinate the functions of the committees and of the principal officers;

(iv) it will take initiative in formulating policy objectives of the Council and present them for the Council's decision;

(v) it will decide and act on behalf of the Council in respect of such matters as are delegated to it by the Council, provided the matters delegated to it do not fall within the executive responsibilities of the principal officers;

(vi) it will prepare and present the business to be considered by the Council;

(vii) it will exercise an overall supervision of all the departments of the authority;

(viii) it will regularly review the work of the departments and assess the results and make recommendations thereon to the Council;

(ix) it will receive the views and recommendations of the committees and assess them. It will then recommend them to the Council with its own views thereon.

767. In short, its duties may be stated under the headings—interpretation, co-ordination and initiation. The Management Board should be a compact body. It should not be too large or too small. It should be of such a size that it can meet as often and as easily as it wants, but not less than once in two weeks.

768. Unlike the members of the committees, we consider that all members of the Board should be councillors and should be elected by the Council. In the case of members of the committees we have recommended that councillors should be appointed by the Management Board in proportion to the strength of their political parties in the Council. But in the case of the members of the Management Board we do not consider that a specific recommendation in this regard is necessary.

769. Even though councillors may belong to different political parties it will be ideal if they can collaborate and work together as a team regardless of political differences. In some countries this tradition has been carefully developed. Candidates may contest on a party basis, but once elected they renounce party bias and postures, and work as a team only in the interest of the people. This is done deliberately for the main reason that local government services should not be subjected to the pressures and vagaries of party politics.

770. In this sense it will be ideal if councillors of different political parties are elected into the Management Board in proportion to their strength in the Council. But to do this, there must be a psychological pre-condition. There must be an honest gentlemen's agreement to work together as a team in the interest of the people. If such a spirit is lacking then election of councillors of different political parties to the Management Board on a proportionate basis will not work.

771. A Management Board is intended to manage rather than administer and it should be a pivotal body. It should be effectively utilised to get the optimal results. It should not be turned into a hot-bed of politics, deadlocks and squabbles. Where it can work with proportionate representation of different political parties in the Council it may be tried with a view to building an atmosphere of creative co-operation in rendering local services. If this is not possible then the practical and the logical course is to elect only members from the majority party to the Management Board so that they can work as a team and with a degree of discipline.

772. We are of the view that councillors elected to the Management Board should work under the doctrine of collective responsibility. Introduction of this doctrine into the local authority would provide the primary training in the art of government for like-minded politicians. Adherence to the doctrine of collective responsibility does not mean that every councillor should be in charge of a particular department. We do not consider this necessary. A councillor in the Management Board is not like a minister in the national cabinet. He is more like a member in the Executive Council of a State Assembly. All the members of the Board should be responsible for the decisions and acts of the Board, and the collective responsibility should come into play in this sense.

773. If the Chairman of the Management Board belongs to the majority party in the Council he may be regarded as the leader of that party in the Council. The Chairman of the Management Board should be precluded from being the Mayor or President of the Council at the same time. Every member of the Management Board should, however, take special interest in a particular service or group of related services of the local authority and gain knowledge connected with it so that in the Council he may speak on it with confidence and knowledge. This will improve the quality of debate in the Council. We have recommended that the Chairman of every committee should be a member of the Management Board. This will enable better understanding between the committees and the Board and will enhance co-ordination.

774. The Municipal or District Secretary will also be the Secretary of the Management Board. No member of the Management Board should by-pass him and deal directly with a principal officer or the staff of a department since no member is given exclusive responsibility over any department.

775. At every Council meeting there should be at least a general Question Time not exceeding one hour. The Chairman or members of the Board may answer questions during the Question Time.

776. Principal officers will be responsible for the executive duties connected with their respective departments. A Council may, however, delegate to the Management Board decision-making responsibilities on matters which are outside the decision-making responsibilities of the individual principal officers. In such a case, the decisions so made by the Management Board should be implemented by the Secretary to the authority.

777. We therefore recommend that:

(i) every local authority should have a Management Board;

(ii) it should be composed of not less than five and not more than nine councillors. Such councillors should be elected by the Council;

(iii) the members of the Management Board should elect one from amongst their number to be the Chairman of the Management Board;

(iv) the functions of the Management Board should be—

(a) to receive recommendations from the committees of the authority and to evaluate them;

(b) to formulate from time to time the main objectives of the authority with proposals to attain them and to have them tabled for consideration and decision by the Council;

(c) to review periodically the progress made by the authority in the realisation of its various objectives and to evaluate the results attained or not attained on behalf of the Council and to submit recommendations thereon for the Council's further consideration and decision;

(d) to maintain, on behalf of the Council, an overall supervision of the organisation of the authority and of its co-ordination and integration wherever necessary;

(e) to make decisions on behalf of the Council on matters specifically delegated to it and where authority has not been delegated to recommend decisions to the Council;

(f) to be responsible for the presentation of business to the Council subject always to the rights of members under Standing Orders;

(v) a member of the Management Board should not consider himself responsible for any particular service of the authority or its department. This responsibility belongs to the principal officer concerned;

(vi) a member of the Management Board, however, may take special interest in a particular service or department and acquaint himself well with the subject so that he can speak on it in the Council with knowledge and understanding;

(vii) a member of the Management Board should adhere to the principle of collective responsibility of the Management Board;

(viii) no member of the Management Board should by-pass the Secretary to the local authority and establish direct dealings with any principal officer and act independently of the Board;

(ix) no one person should at the same time be the Chairman of the Management Board and be a Mayor or President of an authority;

(x) the Chairman of the Management Board may introduce any motion or proposal as recommended by the Management Board;

(xi) members of the Management Board be responsible for answering questions raised during the Question Time in the Council. The Question Time should not exceed one hour at every sitting of the Council.

THE SECRETARY AND THE PRINCIPAL OFFICERS

778. At present the position of a Secretary to a local authority is very much like that of the Town Clerk in an English local authority. His position may be summarised as follows:

(i) though he is not superior to the principal officers, he has been acknowledged as first amongst equals;

(ii) he is not the chief administrative or executive head;

(iii) he is not responsible to his Council for the acts entrusted to the officers;

(iv) a principal officer does not regard himself responsible to the Secretary for the internal administration of his department. He normally considers that he has full executive responsibility over his department and that he is only answerable directly to the Council for the function of his department or the performance of the service under his control;

(v) because of the loose relationship between the Secretary and the principal officers, co-ordination between the departments has been lacking and to that extent general efficiency has been affected;

(vi) the present laws are silent on matters of co-ordination and integration. They do not adequately spell out the Secretary's status, powers and duties;

(vii) depending on his personality and qualification a Secretary, here and there, has been able to introduce some degree of co-ordination. But this has been due to his initiative and not because he is by law obligated to do so.

779. Modern practice of local government demands that co-ordination and efficiency cannot any longer be left to the personal initiative of a Secretary. Indeed they must be made the inherent elements of internal organisation. The internal structure should be such that it lends itself to greater efficiency and a constant urge for improvement. In view of our recommendations for a larger local authority and the separation of powers between the councillors and the officers, a radically new thinking is necessary in regard to the role of the Secretary. It is not sufficient for him to be *primus inter pares*. He has to be the chief executive and administrative head in order to maintain control and co-ordinate the activities of the local authority. The proposed local authority will not have an elected

executive head like in the case of the present Municipalities. The Mayors or the Presidents we have recommended will no longer be the executive heads, but they will instead be presiding officers of Councils and in addition will play ceremonial roles.

780. Likewise, the Chairman of the Management Board will not be an executive head. He will merely be the head of the Management Board. As stated earlier a Management Board will mainly serve as a co-ordinating machinery. It will only discharge such executive responsibility as may be expressly delegated to it by its Council. But such delegation of executive responsibility will have to be other than those vested in the principal officers. The area of such executive role will be small and should only be given in exceptional circumstances. The Management Board therefore cannot be considered as a plural executive but will be more of a policy-making body serving as a clearing house. As such the Chairman of a Management Board will not play any executive role. Who then should be the chief executive in the proposed local authority? Who will be the chief administrator as distinct from the chief executive in the proposed structural arrangement?

781. We are of the view that the Secretary should be the chief executive as well as the chief administrator of the proposed local authority. Every principal officer will be the executive officer in his department. But the Secretary will be the chief executive over all the departmental executives. Every departmental executive will be answerable in respect of his responsibilities to the Secretary. The Secretary in turn will be answerable in respect of all his principal officers' responsibilities to the Management Board and the Council. If a principal officer derelicts in his duties, it will be the Secretary who will have to be responsible and answerable to the Management Board and the Council.

782. It is therefore important that the Secretary will have to closely supervise the functions of his principal officers. He should be the focal point in the process of a local authority. He will be the link between the Council and the principal officers and between the Management Board and the principal officers. He must work closely with the Council in co-ordinating and formulating policy objectives and should also work very closely with the principal officers in co-ordinating the process of implementing the objectives. In both these aspects, namely co-ordinating and formulating policy objectives and in implementing them, he will work closely with the Management Board. As a chief executive and chief administrator he should play the role of a pivot-man or the captain of his team. It is important that he should lead and not dominate. Power to some extent is concentrated in him so that he can be a driving force towards greater efficiency. But it will have to be carefully, objectively and intelligently used so that it will not dampen or obstruct the process of public participation. It must always be remembered that the very purpose of granting a decentralised local government is to encourage public participation. An intelligent Secretary can stimulate healthy public participation by the wise use of his initiatives.

783. The Secretary has an important duty in setting the climate for his Management Board and his Council to make the right type of decisions. Between formulation of ideas and their implementation, there are four phases in which the Secretary may normally be involved. These would be:

(i) the preparation and formulation of ideas;

(ii) the exposition of the proposal to achieve the ideas;

(iii) the acceptance or the rejection or the modification of the ideas;

(iv) the implementation of the decision considered in the Management Board or the Council.

The Secretary however may frequently play a key role in the first two phases. The last phase will of course be his sole responsibility to be exercised through his principal officers concerned. The third phase will be the role of the Council or the Management Board in which the Secretary may be an important influencing force. Clearly, therefore, the importance of the role of the Secretary in the decision-making process of the Management Board or the Council cannot be over-emphasised.

784. Sources of proposals for decisions arise from different quarters. The members of the Council may themselves initiate proposals but generally they may not do so consistently or regularly. The important source of proposals for policy and objectives should therefore be the internal organisation itself. Principal officers and committees should be stimulated and encouraged to initiate proposals in the light of experience gained. In achieving this, the Secretary should serve as the spring board of encouragement.

785. One of his important duties should be to advise the Council as to the legality or otherwise of any question or proposition before the Council. This has been recommended to avoid the Council from making unlawful decisions. In the past, advice even of a technical nature made by the principal officers have been ignored by Councils, resulting in legal proceedings to the detriment of the local authorities. In a particular instance there is a case still pending before the Privy Council. To avoid such occurrences the Secretary should be given power to prevent unlawful decisions from being implemented and to have them referred to the State Authority for its views. Pending the decision of the State Authority it should be provided that such a decision should not be implemented. To have this question disposed of expeditiously time limits have been imposed wherever necessary.

786. Apart from serving the Council of the local authority, the Secretary should also be required to serve the State Authority on State matters and the Federal Government on Federal matters. Both the State and Federal matters should be expressly delegated to him, in which case he will serve as the deconcentrated agent of the two superior governments. In Chapter XI which deals with services we have recommended that certain State and Federal services may conveniently be delegated to the Secretary of a local authority.

787. One of the important reforms that is recommended is aimed towards making the Secretary as the focal point of public administration in a district. For many decades the District Officer has been the focal point of officialdom in a district. Introduced during the colonial era by the British, the District Officer has survived the passage of time. He has remained unaffected by the winds of politics that have identified and associated the Federal and State administrations with public and popular representation. At the district level the District Officer is essentially a power of officialdom unruffled by popular representation. Should he continue to be so, especially within the context of a popularly elected district local authority? We are of the view that in respect of most local services the people of a district should be encouraged to identify themselves

with their local authority and to regard it as the source of their local strength and needs. This identification is necessary to promote participation and thereby strengthen the basis of democracy.

788. The District Officer in a district is and has been providing many assorted services. Some District Officers are so loaded with all kinds of work that they have to chair as many as thirty different committees. During our enquiry we were told time and again that a District Officer is an overworked person and that even with assistants he is often unable to cope with all his responsibilities as efficiently as he wants. (*See* Chapter X in regard to the role of District Officers in connection with local authorities). Though a District Officer may perform many types of services, his services may nevertheless be grouped under four broad headings, viz:

(i) his services as the collector of land revenue and generally in respect of all land matters;

(ii) his collection of general revenue for the State Authority;

(iii) his services in respect of Town Boards, Local Councils, District and Rural District Councils and some Town Councils;

(iv) his functions in respect of welfare and other services of a miscellaneous character.

789. As a District Officer is more often than not concurrently a collector of land revenue, he performs the services in item (i) above in his capacity as the collector of land revenue. This is an important and often a technical and complicated service which he is required to render under the National Land Code. He is also responsible for collecting other revenues under item (ii) above for the State in a district. In order to promote greater efficiency we are of the view that the collection of all State revenues, both land and general, should be divorced from the District Officer and should be made the sole responsibility of a full-time collector of revenues for the State Government. There is no doubt that land matters are getting to be of great importance day by day and that they themselves need a full-time officer to attend to them. With the responsibility to collect additional revenues, there will be more than adequate work for a full-time officer to serve as collector of land revenue and concurrently collector of general revenues without at the same time having to be a District Officer. If revenue matters are removed from the District Officer, there will remain his other main service in relation to local authorities referred to in item (iii) above. In view of our recommendation for the proposed local authority he will also be divorced from his responsibilities in connection with local government. This will result in the District Officer having only some development and welfare services to discharge.

790. Now that we have recommended a local authority for each administrative district, we are of the view that there will be no real need for an officer of the State Authority to serve as a District Officer in a district. We consider that the welfare and development services at present rendered by a District Officer either on behalf of the State or the Federal Government can just as well be rendered by the Secretary to a district local authority provided the State or the Federal Government will defray the expenses incurred by such authority and by seconding officers wherever necessary to work with the Secretary to a local authority. This will no doubt result in projecting the local authority in a district as the nerve-centre of government services and will enable

the public to identify themselves with a representative local authority. Otherwise, there will continue to be the deconcentrated district office with a District Officer not being answerable to the local people, but wielding a great many powers side by side with a decentralised district local authority, elected by and answerable to the local public, but without appearing to be the source of most local services. In this incompatible juxtaposition the District Officer will be the manifestation of officialdom and real power in many matters whereas the Secretary to the district local authority will reflect a representative image without being able to provide most local services. This dichotomy in local administrations will not, in our view, help strengthen local democracy and make it appear meaningful or be in keeping with modern trends.

791. Despite the useful services rendered by the District Officer, it cannot be denied that his continued existence as the main power symbol and centre has become anachronistic and not compatible with the need for local democratic institutions. It is therefore necessary for the State and Federal Governments to make full use of the Secretary to a district local authority as their local deconcentrated agent in providing welfare services. Even though such services may spring from State or Federal sources, their channelisation through the Secretary to a local authority will enable the public to be conscious of the importance and the need of a decentralised local authority. In turn, the public will begin to have greater belief and confidence in the efficacy of democracy in managing public affairs.

792. In view of the key role of the Secretary to the local authority, we are of the opinion that he should be a person of rank, experience and qualification. It is also important that his appointment and dismissal should be vested with the State Authority and not subjected to the vagaries of a local authority. He should be in a position to work with a sense of independence and dynamism. Though he is required to serve two masters, namely, the local authority and the State Authority, he must fairly and boldly represent the interests of his local authority to the State Authority and vice versa like the Burgomaster in the Netherlands. Though the Burgomaster is appointed for a period of six years by the Crown as the executive head of a municipality, he is required to represent loyally the interests of his municipality to the central government. The Secretary should, in short, serve as a bridge of understanding between the State Authority and the local authority so that there would be minimal or no interference by the State Authority in the affairs of his local authority. In the same way he should also ensure that there is little or no disregard for the laws and regulations on the part of his Council justifying such interference by the State Authority. The ability of a Secretary should be greatly judged by the smooth relationship he is able to generate between the State Authority and the Council in managing the affairs of his local authority. His is not an easy task but should be a challenging and exciting one in the process of building grass-root democracy. He should keep himself above local politics or the politics of the State Government and should not consider himself as more of an official of the State Government and less of the local authority.

793. We therefore recommend that:

(i) the principal administrative and executive officer of a local authority should be styled as the Municipal or District Secretary as the case may be and should be appointed or removed by the State Authority;

(ii) in the case of a Municipality, an officer of the Malaysian Home and Foreign Service not below the rank of Superscale "F" should be appointed, on secondment, as the Municipal Secretary for a minimum period of not less than three years at a time; or

(iii) any serving Secretary of an existing Municipality or of a local authority with an annual revenue of not less than $2,000,000 should be retained in service as the Municipal Secretary, provided that he is found suitable for the increased responsibilities consequent upon the reforms proposed herein;

(iv) in the case of District Councils, any of the following may be appointed as a District Secretary of a District Council—

(a) a serving officer in the Malaysian Home and Foreign Service not below the rank of Superscale "H" or an officer of the State Civil Service of equivalent status. In such a case, his appointment should be on secondment for a period of not less than 3 years at a time;

(b) a serving Secretary of a financially autonomous Town Council, Town Board or District Council who in the opinion of the State Authority is a suitable person to be retained in the service;

(c) an Honours graduate preferably in Economics or Public Administration from a recognised University with not less than 5 years' experience in administration either in Government or in the private sector;

(d) a qualified company secretary or accountant or a lawyer with not less that 5 years' experience in administrative or professional service;

(e) a person holding a diploma or degree in local government studies of a recognised University or an Institute and with not less than 7 years' experience in local government administration.

(v) except for an officer of the Malaysian Home and Foreign Service and an officer of the State Civil Service seconded to serve as Secretary in an authority, any other person so appointed may be employed on a permanent basis with the usual provision in the contract of service for termination by either side;

(vi) the Secretary should be the chief executive and chief administrator of the local authority;

(vii) he should have authority over all other departmental heads of the authority to the extent necessary for the efficient administration and execution of the authority's functions;

(viii) he should be responsible to the Management Board and through it to the Council as a whole;

(ix) the departmental heads should be responsible to the Council through the Secretary;

(x) the terms and conditions of service should be such that the respective positions of the Secretary and the departmental heads should be made beyond equivocation;

(xi) the Secretary should be an ex-officio member of the Council of his local authority;

(xii) he should be allowed to participate in the Council debates and proceedings without the right to vote in deciding any matter;

(xiii) after consulting the Council's Mayor or President, he should be responsible for fixing the date and time of the Council's meeting, preparing the order paper of the meeting and for calling the meeting of the Council;

(xiv) it should be his duty to advise the Council on all matters touching upon—

(a) the existence or non-existence of the power of the Council on any question before it;

(b) the legality or non-legality of any question or proposition before the Council;

(c) the procedure of the meeting generally and in respect of matters before the Council either through the Mayor or President or by himself with the consent of the Mayor or President;

(xv) where a Secretary advises as provided in Recommendation (xiv) above and notwithstanding the advice the Council decides against it, the Secretary should state in writing his advice, the reasons therefor, the particulars of the decision and the reasons therefor and forward the same to the State Authority within one week of the date of the decision of the Council. Until the State Authority makes known its decision on the matter, no action on the matter should be taken;

(xvi) the Secretary should cause full minutes of the proceedings of all meetings of the Council to be taken and submit the same to the State Authority within fourteen days of such meeting;

(xvii) the Secretary should also be the Secretary of the Management Board of the Council;

(xviii) it should be the duty of the Secretary to have the Management Board adequately serviced and to carry out its responsibilities by providing co-ordinated and integrated staff work and seeing that its decisions and those of the Council are implemented;

(xix) it should be the duty of the Secretary to exercise on behalf of the State Authority such powers as are conferred upon him by the State Authority;

(xx) three categories of powers should be ascribed to the Secretary—

(a) powers granted to him in respect of the local authority;

(b) powers delegated to him by the State Authority in respect of State matters;

(c) powers delegated to him by the Federal Government in respect of Federal matters;

(xxi) in the case of State matters, the Secretary should be made responsible for all matters other than land matters and general revenue of the State;

(xxii) such welfare services as have been carried out through the District Officer by the State Authority should hereafter be carried out through the Secretary to the Council and for such purposes the Secretary should be given the power to seek local participation as he deems necessary and expedient;

(xxiii) the district development service hitherto carried out through District Development Committees under the Chairmanship of District Officers should be carried out in like manner under the Chairmanship of the Secretary to the Council with enlarged participation by the inclusion of a suitable number of councillors from the authority;

(xxiv) likewise, the Federal Government wherever possible and expedient should delegate its field services, whether of development or of a welfare nature, to the Secretary and through him render the developments of the services to the local populace with local participation wherever it is considered necessary;

(xxv) in providing such services the Federal Government should defray the administrative and other expenses incurred by the Secretary in acting as the agent of the Federal Government at the district level;

(xxvi) the overall duties of the Secretary should include—

(a) maintaining the effectiveness and efficiency of the authority and the co-ordination and integration where necessary of its activities;

(b) introduction and application of effective control systems;

(c) providing leadership to the administration as a whole so that under his leadership heads of departments can work as a team and able officers are given opportunities for self-development with responsibilities to match their talent and initiative;

(d) provision of secretarial services for all committees;

(e) introduction of measures to secure economy in the use of manpower and materials from time to time;

(xxvii) the principal officers of a local authority should be the heads of their various departments;

(xxviii) the principal officers should—

(a) be responsible to the Council through the Secretary for the efficient and the effective management of the services provided by the departments of which they are the heads;

(b) execute the instructions of the Council and of the Management Board and take such decisions as are necessary to give effect to the instructions;

(c) advise the Management Board as and when required by the Secretary and the committees whenever necessary and provide staff work to the Board and the committees with professional and technical advice as requested;

(d) work as members of a team of managers and specialised advisers under the Secretary;

(e) be active in promoting innovation and improvements throughout the authority area.

MANAGEMENT PROCESS

794. We have stated that a future local authority should work more with a sense of management than administration. With this in view we have recommended a structural reorganisation of major import. A local government, like any other government, is judged not by what it pronounces but rather by what it is able to produce. To achieve the optimal result it is imperative that the management process should be clearly understood. Its success essentially depends on its systematic approach.

795. Systematic management is a cyclical process which requires a time-table for its effective operation. Every policy objective decided by the Council should have a time-table for its implementation. It is imperative to recognize that the real value of a decision is not when it remains on the minutes book but rather when it is translated into a reality. Unless a time-table is set for its implementation and it is in fact implemented according to the time-table a decision will cause frustration to those who pass it and to those who expect some benefit from it. And what is more, an accumulation of such a frustration may result in the lack of confidence in the democratic process of managing a local authority.

796. The time-table should provide the following:

(i) an estimated target date for the implementation of a decision;

(ii) intermediate dates for the review by the relevant committee and the Management Board of the progress made in the implementation of a decision;

(iii) final review on the target date by the committee and the Management Board;

(iv) report by the committee to the Management Board as to the successful completion or the partial or total failure of completion, and the reasons therefor and recommendations thereon;

(v) assessment of the committees' report by the Management Board and the forwarding of the report with or without further comments or recommendations by the Management Board to the full Council for its review and decision.

797. In order to carry out its functions satisfactorily every local authority should have both long-term and short-term objectives. Short-term objectives would be in relation to the preparation of budgets and programmes to provide the various services. Every short-term objective should have a time-table with fixed dates for the review of the relevant committee and the Management Board before it is recommended to the full Council for its decision. After the Council has decided, the cyclical process should continue by reviews by the relevant committee and the Management Board as to the progress made by the principal officer concerned in implementing the decision of the Council. Such review should be made in accordance with fixed dates on the time-table. Likewise, a long-term objective should also go through the cyclical process of the time-table to ensure effective management by the principal officers. It should be the duty of the Secretary to the local authority to ensure the periodical review of every objective by the committee, Management Board and the Council in accordance with the time-table.

798. We therefore recommend that:

(i) every authority should adopt a systematic approach to the processes of management;

(ii) to achieve this end every authority should require its Secretary to work out a time-table to be included in management procedure guides which will ensure that objectives are set and progress reviewed in all fields of activity.

DELEGATION OF POWERS

799. We have recommended earlier that the Council should be responsible for all the activities for which the local authority is by law responsible and answerable (*See* Recommendation 697 (xv)). This means that the ultimate responsibility for every act of a local authority is that of its Council and therefore all the powers of the authority have to be exercised in the name of its Council. This may raise some legal and practical difficulties unless there is a provision enabling the Council to delegate powers to the Secretary and the principal officers of the local authority. It may be remembered that we have recommended earlier that the principal officers should be responsible for the day-to-day administration. It is therefore necessary that they should be delegated with the relevant powers of the Council to discharge their day-to-day tasks.

800. Though Section 42 of the Municipal Ordinance (S.S. Cap. 133) and Section 10 of the Town Boards Enactment (F.M.S. Cap. 137) empower delegation of powers to the committees, there is no specific provision to delegate powers of the Council to the officers of a local authority operating under either of the abovementioned statutes.

801. In considering the question of delegation of powers, a marked difference between a civil servant of the government and an officer of a local authority should be noted. A civil servant acts in the name of his Minister without any formal delegation of power by the Minister. In discharging his duty a civil servant is expected to know the mind of his Minister and is required to act in such a manner that a Minister will not find it difficult to defend the act. On the other hand, a principal officer of a local authority cannot exercise the powers of a Council. His act will have to be supported by a resolution either by the Council or by the committee of his local authority. To avoid this difficulty we are of the view that specific provisions should be made in the future law enabling a Council of a local authority to delegate the necessary powers to its principal officers.

802. We therefore recommend that:

(i) it should be expressly provided in the law that any act authorised or required to be done by a local authority may be done by an officer of the said authority in that behalf by authority of the Council either generally or specifically;

(ii) provision should be made in the law that a document purporting to be signed by an authorised officer containing a decision of an authority shall be accepted by the Courts;

(iii) provision should also be made in the law granting legal protection to the authorised officer from being asked in any Court or tribunal to disclose on discovery or interrogatories or in evidence whether the decision has been taken by the authority or Management Board, or committee or an officer acting within delegated powers.

CONTROL, SUPERVISION AND SUSPENSION

803. Though control exercised by a superior government over a local government is not really part of a local government structure, it is generally recognised that any such control must necessarily have a critical effect on the structure of a local government. Only for this reason, control, supervision and suspension by a superior government over local government are treated as part of this Chapter.

804. Controls may be of many forms. Broadly, they can be legislative, administrative or financial in character. They can also take the form of a review by the superior government in respect of the legality or the merit of an act of a local government.

805. Legislative control is an inherent right of the superior authority. As local government is the creature of statute, the body that passed the statute has the inherent prerogative to repeal the statute which must necessarily result in the dissolution of the local government. In West Malaysia, this prerogative is constitutionally vested with every State Government and the existence of it cannot be denied. During our enquiry we observed some fallacies as regards this fundamental point and it is necessary that there should be clear appreciation of the constitutional prerogative of the State Government. Each State Government therefore has the constitutional power to create, alter, amalgamate or terminate the very structure of its local government. At present any of these may be effected by a State legislation.

806. Financial and administrative controls by the state or central governments are common throughout the world. It is generally accepted throughout the world that the superior government, whether central or state, should have the right to approve the budget estimates of its local government. This principle is practised in other countries even when the superior government does not make any grant-in-aid and despite the status of financial autonomy. When the superior government makes a general or specific grant, its right to approve the annual budget estimates of a local authority is even more justified than it would have been otherwise.

807. In the case of administrative control a significant departure from the existing system would be the authority of the State Government over the Secretary to the proposed local authority. Administrative control may be exercised through legal and merit reviews. The object of merit reviews is to commit a local authority to do an act or not to do an act when the situation warrants it in the general interest of the district or the state or the country as a whole. Any power given to achieve this object should be exercisable swiftly and effectively. Otherwise, the objective may not be achieved. In order to enforce this power effectively it is necessary that the Secretary should be required to act on the instructions from the State Authority.

808. As regards the required types and number of administrative and industrial and manual group posts, we consider that it is necessary that the State Government should exercise a pre-review of the requirement. Subject to the approval of the State Authority, the local authority concerned should determine the types and number of the posts. We find this necessary in order to avoid local abuses of giving unnecessary employment for political reasons. Apart from the appointment of the Secretary, the process of appointment of all other approved posts should be left in the hands of a local authority. It is to be clearly understood that a local authority can only create a post of any kind after obtaining the approval of the State Authority, whereas the selection and appointment of

the person to fill the approved post will be the responsibility of the local authority. Once a post is approved it will remain approved until it is disapproved by the State Authority. Though we recognise the right of the Council of a local authority to hire an employee, we do not consider it advisable to leave the power of firing the employee in the hands of the Council of the local authority concerned except in the case of an employee of the industrial and manual group. (*See* Chapter on Administration where this subject is dealt with in greater detail). Such a division of powers will give a better sense of security of tenure to an employee and will not subject him to the pressures of local politics. We heard strong views in the Municipality of Malacca that the officers of the Municipality were living in nightmare of some of the councillors who were alleged to have pressured the officers into taking political sides with the constant implied threats of removing them from service if they did not toe the line of the councillors. On the other hand, we also heard views from some councillors of the Malacca Municipality that most officers always took the side of the party in power and some even closely worked in league with the opposition parties in the Council. The Municipality of Malacca gave us the impression of an ugly situation in which councillors or groups of them were politically in league with some of the senior officers.

809. In reviewing the acts or omissions of a local government the State Government is given two types of reviews, namely, merit review and legal review. As it is, the State Government of Penang has made an amendment to Section 398A of the Municipal Ordinance the provisions of which may be described as a form of merit review. This amendment empowers the State Government to require the Council to take such action as is necessary in respect of an event of national importance or of special significance to the State.

810. The necessity of a legal review is too obvious to be emphasised here. No responsible Council should pass any resolution contrary to the law. If it does, then the rule of law has to be maintained even by a rigorous or unpleasant process. On this point no accommodation or compromise is justifiable. Initially, the Secretary to the proposed local authority is given the power to advise the Council as to the legality or otherwise of a matter before the Council. It is hoped that every Council will as of normal course accept his advice except when the Council is satisfied beyond doubt as to the legality of the matter. If a matter is legal and the Secretary's advice is proved to be otherwise, naturally this will be a reflection on the Secretary's ability. It is therefore hoped that no Secretary will hurriedly give his advice without carefully satisfying himself as to the legality or otherwise of the matter. Likewise, if a Council consistently disregards the advice of the Secretary without proper justification it will be exposing its incompetence. To expedite the process of legal review, time limits are necessary within which the Secretary of a local authority and the State Authority will have to act.

811. Merit review by the State Authority over a local authority may be for one of two reasons. They are: (*a*) when a local authority refuses to do an act which it should do in the general interest of the district, the state or the country as a whole or (*b*) when a local authority does an act which it should not do in the general interest of the district, state or the country as a whole.

812. It is recognised that a merit review may easily raise controversies. There may be genuine disagreement as to whether the doing of an act or the refusal to do an act is or is not contrary to the general interest of the district, the state or the country as a whole.

To avoid interminable argument and delay it is desirable that the State Authority's opinion should be given immediate effect. The constitutional prerogative of the State justifies the granting of this power to the State Authority. It is however recognised that this power may be abused by a State Authority and therefore as a check against this, the aggrieved Council of a local authority should be given the right to apply to the High Court with a final right of appeal to the Federal Court on a declaratory suit. In the meanwhile, the State Authority should be entitled to act in accordance with its opinion notwithstanding any application to the Court seeking a declaration on the propriety or otherwise of the State Government's opinion on the legality of the matter. The declaratory suit should only serve to have the matter cleared by the Court and to serve as a guideline for the future.

813. Merit review of this type is necessary to maintain stability in local government administration and to prevent it from turning into an arena of power politics. West Malaysia has its peculiar problems connected with its multi-racial population. It would be quite simple for irresponsible politics to cause local tensions through the machinery of local government, which may even have a far reaching effect at state or national levels. It is to avert situations like these that adequate powers should be provided in the law to be readily available to the State Authority to exercise in the general interest.

814. The other important power that should be granted to the State Authority is the power to suspend a local authority in certain circumstances. Is this power consonant with the principle of democracy? It is considered so in a number of democratic countries.

815. In the United States the citizens enjoy the powers of initiative, referendum or recall in exercising control over their local government. Particularly, the power to remove elected officials by the process of recall is noteworthy. Though the power to recall was suggested to us during our enquiry we do not consider this method suitable in a young country like West Malaysia. As power to recall has to be exercised by petition by the citizens it is always relatively simple to whip up narrow feelings in a multi-racial society and abuse this privilege.

816. In a number of Asian, European and South American countries superior governments are equipped with powers to decommission both elected and appointed officials for gross incompetence, proved disobedience of orders, malpractices, maladministrations and failure to discharge duties on grounds of political stalemate and so on. Though such powers are granted, they are seldom applied except in some of the Asian, Latin European and South American countries.

817. France is a unique example in the exercise of dissolving local authorities. Out of a total of 38,000 local authorities in France nearly 300 of them are decommissioned or dissolved annually mainly for political reasons. Chapman in his book "Introduction to French Local Government", (page 127) points out that: "The conseil municipal as a body can be dismissed if it is unable to function, if it deliberately abuses its power or if it refuses to perform duties legally incumbent upon it. Local politics sometimes lead to such acrimony and such cleavage into hostile groups that no clear majority is possible, and the Mayor is unable to obtain support to continue to administer efficiently or to get the communal budget voted. Nearly every week there are examples of ministerial decrees dissolving conseils municipaux which are unable to function, and nothing remains

but the hope that the local electorate will decide to choose other representatives. It is much rarer to find dissolutions for abuse of power and neglect of duties, but this is considered a necessary reserve power".

818. In a footnote Chapman further points out: "On an average some 300 conseils municipaux are dissolved every year. The principal cause is that the numbers fall below a quorum due to the death of councillors, but it may result from an irreconciliable disagreement on policy inside the council".

819. Nearer home in Ceylon, between the years 1952 and 1955, the Central Government had dissolved two Local Councils and removed 14 elected Chairmen.[1]

820. Even in India, the State Governments have been given various powers of control. A recent report of the Government of India says: "The techniques of supervision and control as exercised in the States have been handed down from British days. Some of them are indirect and less rigorous such as giving directions, calling for information and reports, review of local action, conditional grants in aid, etc. Others are more drastic and take the form of the annulment of local decisions prior to approval of local actions, actions in default, suspension and removal of elected members and dissolution and supersession of the council. The latter types of control are negative and their frequent exercise has adverse effect, undermining the confidence of the people in the system of local government".[2]

821. In Pakistan, Section 74 of the Basic Democracies Order 1959 provides that if in the opinion of the controlling authority anything done or intended to be done by or on behalf of a local authority is not in conformity with the law, or is in any way against public interest the controlling authority may by order:

(i) quash the proceedings;

(ii) suspend the execution of any resolution passed or order made by the Local Council;

(iii) prohibit the doing of anything proposed to be done; and

(iv) require the Local Council to take such action as may be specified.

The Basic Democracies Order gives further powers of supersession of Local Councils if it:

(i) is unable to discharge or persistently fails in discharging its duties; or

(ii) is unable to administer its affairs or meet its financial obligations; or

(iii) generally acts in a manner contrary to public interests; or

(iv) otherwise exceeds or abuses its powers.

822. The above international instances clearly demonstrate that a local authority is not sacrosanct and that it may be dissolved or suspended if it does not measure up to its responsibilities. On the other hand, it is important that a superior government should

1 Report of the Commissioner of Local Government (Colombo 1955) page 214 cited in Samuel Humes and Eileen M. Martin: The Structure of Local Government Throughout the World (1961), pp. 47 & 48.

2 Report of the Rural-Urban Relations Committee Vol. 1 Report. Government of India, Ministry of Health & Family Planning (1966), p. 117.

not just suffer the existence of a local government and wait for the day when it can be struck down. In dealing with the State Governments' relations with local bodies in India, the Simon Commission of that country said that: "where spur and rein is needed" the State Government has been given the "use of pole axe" against local authorities.

823. It is not difficult for a State Government to provide for itself all kinds of controls against a local authority. A control is a power which should not be desired for its own sake. It should be a weapon that should be kept in reserve, only to be used when warranted by exceptional circumstances. The real effectiveness of a control is not in the frequency of its use but rather in the fear of unscrupulous and irresponsible Councils against whom it may be used. In other words, the control should not have the effect of the Sword of Damocles hanging over the heads of all local authorities but rather only as a deterrent against those who abuse their powers and neglect their duties.

824. During our enquiry various views were expressed about the necessity of having a watchdog committee or an ombudsman or an inspectorate to have a regular watch over the activities of local authorities. It was suggested that it would be wiser to take preventive measures against malpractices or maladministration in local authorities than to resort to curative measures after the damage is done. It was said that if only the State Authorities had exercised regular and timely checks and controls over the activities of their local authorities, most of the present problems of local authorities could very well have been averted or contained in time.

825. We are satisfied that in order to nourish the growth of a stable local government, there should be a systematic and regular watch over the activities of every local authority. We gave due consideration to the suggestion in support of appointing an ombudsman for local government. In our view, an ombudsman is unnecessary for local government in this country. On the other hand, we think that there is a need for a controlling institution within the framework of the local government in the country. It will be useful to have a well greased watchdog machinery on a standing basis. Such a machinery should be set up in the name of Regional Inspectorate of Local Government, which should serve as a watchdog of all the local authorities in a particular region. Two or more States should be grouped as a region for the purpose of establishing a Regional Inspectorate of Local Government which should be headed by a Regional Inspector. The National Council for Local Government should agree as to the grouping of States into a suitable number of regions for the purpose of establishing Regional Inspectorates.

826. A Regional Inspector should be subordinate to the Federal Commissioner of Local Government. His main duties would be to keep a regular watch over the activities of all local authorities in his region by making periodical visits, by examining the documents of a local authority, by receiving any complaints against a local authority either orally or in writing from any citizen, and by checking the veracity or otherwise of such complaints. He should be entitled to receive the minutes of the Council, the Management Board and the committees as of right, and assess public opinion on the decisions of a local authority.

827. At the request of a State Authority he should also investigate into the affairs of a local authority in the State and make reports to the State Authority with a copy to the Federal Commissioner of Local Government.

828. If a Regional Inspector has substantive evidence in his hand to justify the suspension of a local authority he should submit it to the Commissioner of Local Government for the latter's action. There is no doubt that a suspension of an elected Council is a serious indictment. It should therefore be used only as an act of last resort. The reasons for suspensions are set out in the recommendations here below. It is important to recognize the truism that no Council can be perfect in the discharge of its duties. There may be instances of neglect of duties which may result in some malpractices and maladministration. These by themselves should not constitute a reason for suspension. Before a Council is suspended it must be positively guilty of a series of abuse of powers or failure to discharge its duties despite repeated advice by the State Authority. The seriousness of irresponsible acts or omissions are questions of degree which should be carefully evaluated. Otherwise no Council should be suspended unless it is consistently guilty of dereliction of duties in defiance of repeated advice.

829. As suspension is a serious measure we consider that a division of responsibilities is desirable in the decision and execution of suspension. We believe that it is in the interest of a State Authority not to be solely responsible for the decision and execution of suspension. As the State Authority is too close to its local authority it will be difficult for it to escape accusations that in suspending a local authority the State Authority has been politically motivated even if it has acted fairly and reasonably. To avoid unnecessary accusations against a State, we are of the view that the decision to suspend should emanate from the Federal Commissioner of Local Government based on the substantive evidence placed before him by the Regional Inspector of Local Government. If the Federal Commissioner of Local Government is fully satisfied that there is more than a *prima facie* case against a local authority to justify its suspension, he should advise the State Authority to suspend the local authority concerned by clearly stating his reasons for such an advice and by stating all the specific allegations in support of his advice. On receipt of the advice, the State Authority should proceed to suspend as a matter of course. We do realise the constitutional difficulty in binding the State Authority to act on the advice of the Federal Commissioner of Local Government. In order to circumvent this difficulty we consider it necessary that in so far as suspending a local authority is concerned a State Authority should as a matter of practice act on such advice, even though the law may be provided in a permissive language in keeping with the constitutional provisions. It is necessary that every act of suspension should be accompanied by a statement by the State Authority setting out in detail the various allegations against the local authority as found by the Federal Commissioner of Local Government so that the citizens in the district will know all the reasons that led to the suspension of their local authority. Once a local authority is suspended, its Council's powers should be superseded by the State Authority whereupon the Council, the Management Board and all the committees of the local authority concerned should be dissolved. The State Authority should manage the local authority through the Secretary to the local authority until fresh elections are held not later than nine months from the date of suspension. An act of suspension should be final with no right of appeal to any court or body. As suspension is a summary and final act on the part of the State Government, it is absolutely important that it should be very prudently and sparingly exercised and only as a last resort.

830. Where the allegations of malpractice in support of suspension clearly implicate an officer or officers or a councillor or councillors, the State Authority should prefer

criminal prosecution against such person or persons. So far as the Council is concerned, we are of the view that no Council should be indefinitely suspended. Fresh elections should be held within a period of nine months from the date of suspension. A councillor against whom criminal prosecution has been preferred may stand for election if the case against him is not concluded before the election. If he is convicted subsequent to his successful election he should be subject to the disqualification provisions, if applicable to him.

831. We therefore recommend that:

(i) the State Government should have legislative, administrative and financial control over the local authority;

(ii) legislative control may be exercised by taking steps to amend the Act as and when circumstances require;

(iii) administrative control should be laid down in the Act to avoid uncertainties;

(iv) financial control also should be expressly laid down in the Act to avoid uncertainties;

(v) control should be exercised by the State Authority by review of an authority's decisions. Such reviews may be: (a) legal review; or (b) merit reviews;

(vi) legal review should be to ascertain the legality of a decision by an authority;

(vii) if a decision of an authority is found to be contrary to any legal provision, the State Authority should declare that it is unlawful;

(viii) provisions should be made in the law setting out the procedure of legal review on the following lines—

(a) where a Council wants to make a decision which is contrary to law, it is the duty of the Secretary to advise that it is unlawful;

(b) if the Council accepts the Secretary's advice, the matter should end there;

(c) if the Council does not accept the Secretary's advice and makes a decision contrary thereto, the Secretary should proceed to act as recommended in paragraph 793 (xv);

(d) within 21 days of the receipt of the Secretary's submission, the State Authority through the State Commissioner of Local Government should give its opinion thereon, failing which, the local authority concerned should be entitled to act on the decision as if the decision is deemed to have been confirmed by the State Authority. In such a case, any citizen in the district concerned should have the right to nullify the decision by judicial process;

(e) if the State Authority gives its views confirming the advice of the Secretary, the opinion of the State Authority should prevail unless any councillor or a citizen on his own behalf and at his own expense applies to the High Court for a judicial review of the legality of the decision and for the relevant remedies;

(f) pending the opinion of the State Authority within the stipulated time, no decision passed by the Council should be implemented.

(ix) merit review should be very sparingly exercised as provided hereunder—

(a) when a local authority refuses or fails to do an act which, in the opinion of the State Authority, the local authority should do in the general interest of the district, the state or the country as a whole; or

(b) when a local authority does an act which, in the opinion of the State Authority, the local authority should not do in the general interest of the district, the state or the country as a whole;

(c) when a local authority is dissatisfied with the opinion of the State Authority, it may apply to the High Court of the State seeking a declaration as to whether or not the act or the refusal or failure to do the act is in the general interest of the district, the state or the country as a whole, with a right of appeal from the High Court to the Federal Court. The decision of the Federal Court should be final and conclusive.

(x) in either of the above cases the State Authority should be empowered to instruct the Secretary to the Council to do an act or not to do an act regardless of the Council's decision. The Secretary should be bound to act when so instructed. Where a Secretary without reasonable excuse fails to act as instructed, the State Authority should have power to remove him from service. This power of the State Authority should be expressly provided in the law notwithstanding the right of the local authority to apply to the court as provided in (ix) (c);

(xi) the merit review should be exercised only in respect of a matter though lawful but not desirable in the general interest of the district, state or the country as a whole and a State Authority should instruct the Secretary of a Council as provided in Recommendation (x) only as a last resort;

(xii) the following may be laid down in the law as subject to pre-review by the State Authority—

(a) the annual budget estimates;

(b) by-laws;

(c) any decision of a Council which has been passed against the advice of a Secretary;

(d) confirmation of all posts on the local authority's establishment prior to filling the said posts and removal from service of any employee above the Industrial and Manual Group;

(e) approval of any act under general competence.

(xiii) in respect of the Annual Budget, the local authority should submit its detailed draft budget to the State Authority not later than 30th October of any year and the State Authority should within six weeks of the receipt of the draft budget consider and approve, reduce or reject any items of expenditure appearing therein;

(xiv) any matter that is subect to pre-review should be enforced or implemented only after the approval thereof by the State Authority;

(xv) the State Authority should have power to suspend the powers of a Municipal or a District Council. The powers should be expressly provided in the law. They should not be general but specific;

(xvi) a Council of a local authority may be suspended from functioning on the following grounds—

(a) a Council that consistently neglects its duties in checking its administration and by its consistent acts or omissions allow a corruption of wide public import or generally wide-spread corruption in the administration or general malpractice or maladministration among the officers of the authority;

(b) a Council that allows too much of power in the hands of its Management Board to the extent that the members of the Board themselves indulge in corrupt practices or permit either by act or omission general maladministration or corrupt practices or malpractices or gross financial mismanagement to arise among the officers;

(c) a Council that consistently passes unlawful decisions against the advice of the Secretary and which are confirmed to be unlawful by the State Authority.

(xvii) before a State Authority can exercise its powers of suspension, it should be so advised to act by the Federal Commissioner of local Government;

(xviii) the Federal Commissioner of Local Government should have an Inspectorate of Local Government functioning under him with regional offices at appropriate centres throughout West Malaysia. The latter should be styled as the Regional Inspector of Local Government;

(xix) the duties of a Regional Inspector should be as follows—

(a) he should make periodical visits to the local authorities in his region;

(b) he should have the right to ask for and examine any document of an authority;

(c) he should be empowered to receive complaints in respect of a local authority from the citizens in that district, either verbally or in writing, and to investigate and check the veracity of such complaints;

(d) he should be empowered to receive the minutes of the Council, the Management Board and committees of every authority in his region and assess public opinion thereon as he deems necessary.

(xx) where a Regional Inspector is satisfied upon evidence that a Council of a district should be suspended, he should furnish to the Federal Commissioner of Local Government the reasons and the evidence in support thereof;

(xxi) the Federal Commissioner of Local Government, on being satisfied with the evidence, should advise the State Government concerned to suspend the Council from functioning;

(xxii) the State Authority should on receipt of such advice as referred to in Recommendation (xxi) suspend the Council in question;

(xxiii) for the purpose of furnishing evidence as referred to in Recommendation (xx) the Regional Inspector should also investigate at the instance of a State Authority or by public complaints;

(xxiv) when a Council is suspended, all its powers and those of the councillors should be superseded by the State Authority and the Secretary should continue to administer the local authority under the instructions of the State Authority for a period not exceeding nine months from the date of suspension and supersession;

(xxv) at the time of suspension and supersession, the State Authority should issue a statement setting out the reasons for suspension and supersession;

(xxvi) before the expiry of nine months, fresh elections should be held for the Council;

(xxvii) an act of suspension should be final with no right of appeal to any court or body;

(xxviii) a suspension of a Council should be effected very sparingly and only as a last resort in the interests of the authority and the citizens of the district as a whole.

STATE COMMITTEE FOR LOCAL GOVERNMENT

832. In the preceding Chapters, State Authority has been frequently mentioned. Though the laws define State Authority to mean the Ruler-in-Council, for the purpose of exercising the various powers in relation to the proposed local government, we are of the view that each State should establish a Local Government Committee. This should be a Standing Committee required by the proposed Local Government Act. In the recommendation that follows we enumerate the persons who should constitute this Committee.

833. We have stated earlier that one of the chief causes for the problems of the local authorities was the appalling lack of regular supervision, control and guidance by the State Governments over their local authorities. In nearly all the States, local authorities were no more than Cinderellas. The local government file was nearly always at the very bottom of other files. No State had an officer to give full-time service to local government. The officer who was put in charge of local government matters was in most cases very junior and inexperienced. He was generally not in a position to deal with the full range of local government subjects and he lacked the personality or the maturity to wield sufficient influence over the councillors and officials of local government. Besides, he was called upon to do many other tasks so much so the local government did not figure important amongst his many duties. He hardly found time to visit any local authority nor in most cases did he appear to have the confidence to help solve the problems of a local authority. We were told by a local authority that during its several years of existence no State official in charge of local government ever made a visit to it. This situation appeared to be more of a rule than an exception in most States.

834. There were only two States that had officials designated as Assistant Secretary for Local Government. Even in these States the officials were not allowed to give full-time service to local government matters. They were asked to attend to other matters as well. A situation like this should not be allowed to continue if local government is to be managed seriously and with a sense of purpose. The State Authority has just as much responsibility in managing local government as the local authorities themselves.

835. There does not appear to be adequate appreciation of the magnitude of the local government problems on the part of the State Authority. Though supervising a local government may appear to be just another departmental responsibility, it is more extensive and varied than most other departmental responsibilities. A State officer in charge of local government has to have knowledge and experience in problems connected with a host of subjects such as constitution, elections, council proceedings, administration, finance, services and so on. A local government is not limited to one object or interest. It is a government of many and varied interests. A State officer in charge of local government has to be conversant with all the issues and problems of local government. Only then will he be in a position to command the respect of the councillors, secretaries and principal officers of local authorities. We are therefore of the view that it is not adequate to have an Assistant Secretary of Local Government serving at the State levels. Such an officer should be commissioned to serve as the State Commissioner of Local Government like the State Commissioner of Lands. He should be a senior officer of rank and qualifications. As far as possible, a person who is appointed as a Commissioner should not be frequently transferred, unless he proves to be incompetent. A competent officer should be allowed to carry on as a Commissioner for at least a period of five years.

836. The functions of the State Committee for Local Government are enumerated in the recommendations hereunder. The State Commissioner should be the Secretary to the Committee. The State Commissioner and the members of the State Committee should visit every local authority in the State at least twice in a year to gain first-hand information about the local authorities. We consider this an important duty that should be officially and regularly carried out. During the visit to a local authority the members of the Committee should make it a point to meet representatives of public organisations and citizens in the district to get first hand knowledge of their local authority in the district. The visit should not be confined to the offices and councils of the district and to social functions. It should be mainly for the purposes of getting to know the district problems at first hand.

837. We therefore recommend as follows:

(i) the functions of a State Authority in relation to local government in a State should be exercised by a Local Government Committee;

(ii) the State Authority should be advised and assisted by a full-time officer of senior rank and experience styled as the State Commissioner of Local Government;

(iii) all communications from the local authorities should be addressed to the State Commissioner of Local Government and likewise the State Authority will channel its communications to the local authority through the State Commissioner of Local Government;

(iv) in every State, there should be a Committee for Local Government appointed by the State Authority under the Chairmanship of a member of the Executive Council of the State Government, which should have the following as members—

One member of the Executive Council of the State;

Three members of the State Legislative Assembly;

State Legal Adviser;

applicant is obliged to comply with. Such requirements should speak for themselves and if an applicant applies in disregard of them his application only stands to be rejected. But where the obligatory requirements are not clear or where the principal officer is given discretion, an applicant may dispute the injudicious way with which the discretion is exercised and may apply to the tribunal for a decision.

843. We therefore consider it necessary that as far as possible the future law should state clearly the obligatory requirements in respect of all applications so that an applicant will have fore-knowledge of the conditions he should have to comply with. The law should also set out clearly the discretionary provisions so that an applicant can take his chance and make an application.

844. There should be a Local Government Tribunal for every local authority. It should be presided by a full-time judicial officer with legal qualifications. The presiding officer should be styled as the Chairman of the Tribunal. There should be a State-wide panel of members consisting of suitable citizens from all the districts in the State. When the Tribunal sits in a district, two members of the district should be drawn from the panel to sit with the Chairman of the Tribunal.

845. We consider that such a Tribunal will provide an immediate remedy to the citizens and will require the officers to act prudently and expeditiously.

846. **We therefore recommend that:**

(i) a person should have the right to test the validity of any by-law or decision of a local authority and seek the remedy of mandamus, certiorari or prohibition;

(ii) every law or by-law or regulation in respect of any application should clearly state the obligatory requirements that the applicant is required to comply with and the discretionary provisions the local authority may exercise in respect of the said application;

(iii) whenever a person in a district applies for a trade licence, or submits a building plan for approval, or for any permission where such is needed, the principal officer who is empowered to deal with the application should grant or reject the application within a stipulated period as follows—

(a) in the case of any building plan within 45 days;

(b) in the case of any trade licence within 14 days;

(c) in the case of any other permission within 14 days.

(iv) where the principal officer fails to comply with Recommendation (iii) above, an applicant is entitled to appeal to the committee of the authority that may be in charge of the matter or apply to the Local Government Tribunal;

(v) where the principal officer rejects the application, he should state the reasons for his rejection and inform the applicant of his decision informing at the same time that the applicant may appeal against his decision to the Local Government Tribunal of the State within 14 days of the receipt of his letter;

(vi) on receipt of such a letter the applicant may appeal to the Local Government Tribunal within 14 days stating the grounds of his appeal;

(vii) within 60 days of the receipt of the notice of appeal, the Local Government Tribunal should hear and determine the appeal;

(viii) the applicant may appear personally or by his solicitor and he should file such documentary statements as may be required by the rules of procedure of the Tribunal. Likewise, the principal officer should file such statements as may be required of him;

(ix) the decision of the Tribunal should be final on questions of fact. On questions of law, either party may appeal to the High Court within 14 days of the decision of the Tribunal by filing the notice of appeal;

(x) the Local Government Tribunal should be constituted by the State Authority as follows—

(a) the Chairman of the Tribunal should be a qualified lawyer of at least five years standing either in legal or judicial service or in private practice;

(b) he should be a full-time judicial officer solely confined to local Government matters;

(c) he should have his own office with such requisite staff as to enable him to discharge his functions;

(d) there should be a State-wide panel of members from each district consisting of suitable citizens of that district and appointed by the State Authority;

(e) whenever matters are to be heard in a district, the Chairman of the Tribunal should sit in the local authority's office of that district with preferably two members of the panel drawn from that district. Such members should not be councillors or members of any committee of the local authority concerned;

(f) on questions of law, the members of the panel should be bound by the advice of the Chairman of the Tribunal. On questions of fact they may exercise their discretion.

FEDERAL COMMISSIONER OF LOCAL GOVERNMENT

847. It was brought to our attention that there had been too frequent changes of the Commissioner for Local Government and that usually before he had time to know his work properly he was transferred elsewhere.

848. To put it in its historical perspective, the post of Commissioner for Local Government was created with effect from 1st September, 1957, pursuant to a recommendation made by the Working Party on the then Malayan Constitution which pointed out that although Local Government under the new Constitutional arrangement was to be primarily a State responsibility, the importance of uniformity of law and policy on the subject as recognised in Article 76 (4) of the Constitution, underlined the need for the creation of the post of Commissioner for Local Government. The Paper submitted to the then Standing Committee on Finance, which approved the creation of the post, *inter alia*, reads as follows:

> "At a meeting of the Working Party on the Constitution, it was agreed that a post of Commissioner for Local Government should be established, similar to the present post of Commissioner of Lands, and that the officer holding this post should advise the State Authorities on all Local Government matters, including financial assistance to Local Councils, the training

of officers in Local Government matters, and also to deal with all the problems which arise from the staffing and administration of the 400 local authorities which already exist in the Federation. *It is proposed that the Commissioner should spend a great deal of his time in the field working in conjunction with State officers on the problem of particular local authorities.*

It is considered that real progress in the field on Local Government in the States will not be achieved unless both the post of Commissioner and its incumbent are of sufficient seniority to hold discussions with the most senior officials in the States, City and Municipal Councils. For this reason, and on account of the responsibilities it will carry, a grading of Superscale "D" ($1,670) is proposed."

849. In order to enable the Commissioner for Local Government to discharge his duties, he was provided with one G.C.S. Clerk, one Stenographer and one Office Boy.

850. Since then and in the ensuing years following the creation of this post, the workload involved in the Division has increased at an unprecedented rate. The amendment to the Malaysian Constitution in 1960 to provide for a new Article viz. Article 95A (the establishment of the National Council for Local Government) has considerably increased the responsibilities of the Commissioner because as Secretary of the Council he is responsible for commenting on and processing all the Papers submitted by the various State Governments for the consideration of the Council. Again, with the advent of Malaysia, the States of Sarawak and Sabah, although not bound to accept the advice, are required to consult the National Council for Local Government on all matters pertaining to legislation and formulation of policies on local government. Provision is, however, made in the Malaysian Constitution for these two States to become full members of the Council should they so desire at a subsequent date. Even under the present arrangement, the Commissioner is called on to advise the Minister on local government matters in these two States. The establishment of the Consultative Committee of Municipal Corporations, which holds its meeting on the average of once in every 3 months, has added further responsibilities on the Commissioner. This state of affairs has precluded the Commissioner from spending more of his time on the ground.

851. Furthermore, whenever the Commissioner for Local Government was transferred out of the Ministry all the experience and knowledge gained were lost and the new Commissioner had to virtually start to get to know the subject from scratch all by himself. Hence there has been no continuity of purpose or action at the Federal level.

852. We are informed, however, that with effect from 1st January, 1968, two new posts namely that of a Deputy Commissioner for Local Government, Superscale "H", from the Malaysian Home & Foreign Service, and an Assistant Commissioner for Local Government, Timescale, of the Malaysian Home & Foreign Service, have been created.

853. We are of the view that local government is now reaching such a degree of specialisation that it is imperative that the Division of the Commissioner for Local Government in the Ministry of Local Government and Housing should be staffed by senior officers specialised in and having technical competence to advise the Central and State Governments on local government matters. We are further of the view that officers in the Division of the Commissioner for Local Government, if they are to discharge their duties and functions effectively, should at least be posted for a period of 5 years or more, and that the Federal Establishment Office and the Treasury should from time to time examine carefully the staff requirements of this Division and provide such staff as are necessary for this Division to function effectively.

854. To have a watch over the proposed local authority we have already recommended the setting up of a Regional Inspectorate under the Commissioner of Local Government.

855. In view of our recommendation for the appointment of a State Commissioner of Local Government for each State, we consider that the Commissioner for Local Government should hereafter be styled as the Federal Commissioner of Local Government to distinguish him from the State Commissioner of Local Government.

856. It is highly important that the office of the Federal Commissioner of Local Government should be well organised with adequate officers to launch the proposed local authority so that it can have a smooth and stable growth. A great deal of care and thought will have to be put into the various aspects of the implementation of the Report, whether or not it is accepted with modifications.

857. On a long-term view the office of the Federal Commissioner will have to play a key role in the development of a democratic local government in the country. Its functions will have to be clearly understood and its machinery will need to be kept up-to-date to meet the challenging demands of the time. We envisage the following important functions for the office of the Federal Commissioner of Local Government:

(i) drafting legislation, regulations, by-laws, standing orders to be applied throughout the country on a uniform basis;

(ii) formulating policies from time to time for the consideration of and approval by the National Council for Local Government;

(iii) collecting and classifying of statistics on a scientific basis on all aspects of local government on a national basis;

(iv) serving as a clearing house for all information connected with local government on a national basis;

(v) promoting and organising training courses for officers of local government on a national basis;

(vi) drafting of model administrative and financial procedure for adoption by local authorities;

(vii) providing of technical and administrative advice to local authorities on their request;

(viii) carrying out regular studies, surveys and research on all aspects of local government;

(ix) co-ordinating physical planning activities of local authorities with the national physical planning;

(x) maintaining close liaison of Federal Ministries that wish to delegate some of their services to the local authorities;

(xi) inspecting the local authorities through the Regional Inspector;

(xii) advising the State Authority to suspend a local authority when necessary;

(xiii) guiding and assisting the National Conference of Councillors of local authorities and preparing working papers on various aspects of local government for the consideration of the Conference.

858. We are of the view that the present staffing facilities of the Commissioner's office are very inadequate to attend to all the above-mentioned functions. It is necessary

that there should be some specialist officers such as a doctor, lawyer, and engineer to work in the office of the Commissioner of Local Government. These specialist officers should be thoroughly conversant with their respective local government services and should assist the Commissioner to formulate policies and to give technical advice to the local authorities when required. For instance, a doctor working in the Commissioner's office should be in charge of all health data of local authorities and should study the reports of local authorities on health services and be in a position to advise the Commissioner to formulate health policies for local government on a national level. Likewise a lawyer at the Commissioner's office should be conversant with the local government act, regulations, by-laws, standing orders and so on, and should draft such documents from time to time. He should be on the spot to advise the Commissioner on all legal points that may arise in the course of the administration.

859. Unless the local government is managed at all levels with a sense of dynamism, it will not have a healthy growth. Any major reform at the grass-root level must be matched by corresponding reforms at the State and National levels. Weakness at one level will no doubt affect the whole chain of services.

860. We therefore recommend that:

(i) the Commissioner for Local Government should hereafter be styled as the Federal Commissioner of Local Government;

(ii) he should be assisted by such number of specialist and other officers as are necessary to discharge his functions effectively;

(iii) officers appointed to the Division should serve a period of at least five years in the Division;

(iv) a research section of the Division should be set up preferably under an officer qualified in statistics. Such officer should be responsible for maintaining up-to-date collection of data and statistics in respect of local government throughout the country.

WARD COMMITTEE

861. We are aware that the proposed local authorities will be generally large territorial units with a number of small villages or towns within each of them. Though a district local authority will have an elected Council, the councillors will be generally responsible for the welfare of the entire district. What about the day-to-day service in a small town or village where there has been a Local Council or even a Town Board? Should the people in these places be given some participation at their levels? In many countries sub-municipal units are created within a large municipal set-up. It is done to give a feeling of participation to the people in a village or a town.

862. Sub-units of a local authority may be established on a decentralised or deconcentrated or on an advisory basis. If it is to be decentralised then it will have to be a representative body corporate with autonomous status. This will no doubt make way for further participation. If it is to be deconcentrated, then it will have to be managed by the officials of the parent authority. In which case, there will be no participation. If it is on an advisory basis it will provide some participation, through nomination instead of elective representation.

863. In view of the fact that the proposed local authority will be a decentralised representative body on a district basis, we do not consider it necessary to have further decentralised sub-units within a district. On the other hand, we do think that there is a need to provide some kind of participation to the people in small towns, villages and rural areas within a district. At present all towns, big or small, and most villages have their own separate local authorities. Many of these local authorities are decentralised representative units. The introduction of the proposed district local authority will inevitably result in the dissolution of the existing local authorities. This will mean a sudden loss of closely knit elective representation to citizens of many towns and villages in the country.

864. Though a representative district local authority has been recommended we do recognise that to many citizens a district local authority may not be an accepted substitute for the separate units that hitherto existed within a district. In order to give some degree of participation not merely to those who have their local authorities at present but also to those who do not have any form of local authority, we are of the view that there should be sub-units of a Municipality or a District Council on an advisory basis in every district. It is not necessary to have these sub-units on an elective basis. In our view the elective representation on a district basis should be adequate and it need not be extended to the sub-unit levels.

865. We consider that a sub-unit should be set up in every electoral ward of a district local authority. If a district local authority for instance, has 22 electoral wards, each of such wards should have a sub-unit which should be styled as the Municipal Ward Committee or the District Ward Committee as the case may be.

866. We have recommended that an electoral ward should be drawn by the Election Commission in consultation with the State Authority. It is important that wherever possible a ward should be so drawn as to have a rural and an urban base. This will be essential to promote a sense of common interest between the people of rural and urban areas and which will be the seed bed of national unity.

867. A Ward Committee should not have less than five and not more than nine members, all of whom should be nominated by the Council of the district local authority. Names of suitable citizens representing specific interests such as minority communities, rural interests, trade and labour interests should be selected by the Secretary to the authority and tabled for the confirmation of the Council. The Council should as a matter of course confirm the appointment as selected by the Secretary.

868. A Ward Committee should be primarily interested in the day-to-day services of the local authority in the ward, consider how the services could be improved, what special services are needed and make recommendations thereon to the district local authority. Its recommendations should be sent to the Secretary to the district local authority. If a recommendation is in respect of a routine executive matter the Secretary should act upon it through his principal officers and table a report thereon at the next meeting of the Management Board and the Council. On the other hand, if a recommendation calls for the formulation of a new policy or the modification of an existing policy, the Secretary should table it at the next meeting of the relevant committee for its consideration and views. The committee concerned should consider the recommendation and forward its views thereon to the Management Board, which

should with its own comments table the recommendation at the next meeting of the Council for its final decision. If the Council approves the recommendation, with or without modifications, the Secretary should implement it through his principal officers.

869. A Ward Committee should meet at least once a month. The members of the Committee should elect one from amongst them as the Chairman of the Committee and another as the Secretary of the Committee. Decisions of the Committee should be sent to the Secretary to the district local authority in the form of recommendations. A Ward Committee may decide by majority of votes and the Chairman may exercise his casting vote in the event of an equality of votes. In view of the Ward Committee's very limited role we do not consider it necessary to give members of a Ward Committee any monetary allowance.

870. Should a Ward Councillor be a member of a Ward Committee as of right? We gave some thoughts to this question. In our view it may not be desirable to give a seat to an elected councillor in his Ward Committee. A councillor may be elected on a political platform. Members of a Ward Committee, on the other hand, would be nominated and would be required to discharge their duties without political bias. If an elected councillor is required to sit in a Ward Committee, it will be generally difficult to prevent him from becoming a dominating figure in the Committee and from using the Committee as a power centre of his ward politics, thus frustrating the Committee from discharging its tasks in a non-partisan and objective way. The problem may even get aggravated if the ward is a plural member ward, having more than one councillor. It may be possible that two or three councillors of a ward may belong to different political parties and if they are called to sit in the Ward Committee it will not be easy for them to resist the temptation of projecting their respective politics into the affairs of the Ward Committee. It is to preclude these possibilities that we consider it not desirable for an elected councillor to sit in his Ward Committee. This does not mean that there should be no liaison or connection between the Ward Committee and the Ward Councillor. In fact, a close liaison between the two will be a definite advantage. An elected councillor will be in a position to explain to the Ward Committee the policy of the local authority and keep it informed from time to time. He will also be in a position to gauge through the Ward Committee the local feelings on matters of local interest. For these reasons a Ward Committee should regularly and periodically invite its Ward Councillor or Councillors to keep the Committee informed as to the current policies and programmes of the local authority in respect of the various matters that a ward may be interested.

871. Whenever a Ward Committee sends its recommendations to the Secretary to the local authority, it should make it a point to send a copy of such recommendations to its Ward Councillor, or if more than one, to each of the Ward Councillors. This will keep the Ward Councillor or Councillors informed of the views of the Ward Committee and will enable him to do whatever is necessary in respect of the said recommendations.

872. During our enquiry, it was often stated that if a district local authority were set up it would be difficult and inconvenient for people in the rural areas to travel long distances to pay their local authority dues. It was suggested that rates and fees should be collected by officials in mobile vans. In order to meet the convenience of the people at towns and villages within a district, we are of the view that the district

local authority should establish local offices at convenient centres to provide local services. The establishment of such offices should be left to the discretion of each local authority. A local office is not essential for every ward but where necessary and convenient this may be done. Two or more wards, however, may be provided with one local office from which local services may be rendered and to which people may go and pay their local authority dues. Such an office will also serve as a meeting place for a Ward Committee or Committees.

873. **We therefore recommend that:**

(i) **every district local authority should establish a Ward Committee in every electoral ward in the district;**

(ii) **it should be styled as the Municipal Ward Committee in a Municipality and a District Ward Committee in a District Council;**

(iii) **a Ward Committee should have not less than five and not more than nine members;**

(iv) **the Secretary to a district local authority should select the members of every Ward Committee in his district and table the names for the confirmation of the Council. The Council, as a matter of course, should confirm such names. If the Council fails or refuses to do so, the Secretary may proceed to confirm the selection of such names;**

(v) **members of a Ward Committee should be selected on a yearly basis and the selection should be so made as to give adequate representation to specific interests such as minority communities, rural interests, trade, labour interests and the like;**

(vi) **members of a Ward Committee should elect a Chairman and a Secretary from amongst themselves;**

(vii) **a Ward Committee's decisions should be by way of recommendations to the district local authority. Its decisions may be by majority and when the votes are equal the Chairman may exercise a casting vote;**

(viii) **on receipt of a Ward Committee's recommendation the Secretary may execute it if it is one of routine executive matters or may refer it to the committee concerned if it is a matter that calls for formulation or modification of a policy;**

(ix) **the committee concerned should consider the recommendation and express its views thereon and forward the same to the Management Board which in turn should table the recommendation with its own views thereon at the next meeting of the Council. If the Council approves the recommendation, the Secretary should implement the same;**

(x) **a Ward Councillor should not be a member of a Ward Committee;**

(xi) **a Ward Committee should, however, from time to time invite the Councillor of the Ward to speak to the members of the Ward Committee in respect of the current policies and programmes of the local authority and on matters of interest to the ward;**

(xii) **whenever a Ward Committee sends its recommendations to the Secretary to the local authority, it should send a copy thereof to the Ward Councillor, or if there be more than one, to each of the Ward Councillors;**

(xiii) every local authority should be given the discretion to establish offices at such centres of the district as it considers necessary in order to provide services for the convenience of the local people. Such an office may be on a ward basis or one such office may be set up to serve more than one ward;

(xiv) in consultation with the State Authority the Election Commission should, as far as possible, draw every ward in such a way as to have a rural and an urban base.

ALLOWANCES AND PRIVILEGES OF COUNCILLORS

874. Throughout our enquiry a subject that drew great interest and on which most councillors were highly vocal was the question of allowances that should be paid councillors and the fringe benefits that should be accorded them. Various suggestions were made ranging from according councillors substantially enhanced allowances, free telephones, free medical attention for themselves and their families and insurance cover, etc., from Council funds, to State Governments being made responsible for the payment of allowances and meeting the costs involved in providing the councillors with fringe benefits.

875. It was argued that the allowances paid to councillors were paltry and insignificant having regard to the work involved in being an effective councillor. It was pointed out that in any month councillors had to attend one meeting of the full Council and four to five meetings of the Committees of the Council which averaged out to at least one meeting every week. In addition, as councillors they had to spend considerable amount of money attending to the problems of their electorate and keeping in touch with them. As councillors they were expected not only to make contributions to charitable local purposes but also contribute more than the average ratepayer. All told, the expenditures incurred in discharging their duties far exceeded what they got by way of allowances. It was further pointed out that councillors came from all walks of life and for political expediency various political parties had to field candidates of varying financial means. The low allowances paid occasioned undue hardships to councillors with lesser means. It was argued that the impartial service of councillors of lesser means would be affected if allowances were not adequate and might even induce them to become corrupt. Furthermore, it was argued that councillors incurred considerable expenditure in seeking office and the allowances paid would not on the aggregate at the end of their three-year tenure of office be anywhere near what they had spent during the elections. In one instance a witness likened the seeking of office in local government elections to the Malay proverb "the rope is more expensive than the elephant". It was asked of us whether or not it was fair for councillors to expect allowances to cover at least the cost involved in discharging their duties. In order to serve the public should councillors be expected to spend their own monies and be to that extent poorer?

876. Councillors submitted that the responsibilities of a councillor were comparable to those of a Member of Parliament or a State Assemblyman. In fact it was their view that the workload of a councillor was considerably more than that of a Member of Parliament or State Assemblyman. A councillor had more meetings to attend than either of them and he was more involved with deliberative and administrative roles than a Member of Parliament or State Assemblyman. One witness even said that a

councillor had more work to do than a Senator in that he was required to attend more meetings than a Senator and had to serve an electorate unlike a Senator. It was said that in spite of the foregoing, Members of Parliament and State Assemblymen were drawing such handsome allowances both as fixed allowances and attendance allowances. In addition the allowances paid to Members of Parliament and State Assemblymen were free from income tax. Time and again it was pointed out that whereas allowances of Members of Parliament and State Assemblymen had been increased from time to time, no such increases were made to allowances of councillors. It was the councillors' view that enhanced allowances should be given them.

877. On the question of fringe benefits, councillors pointed out that in addition to the handsome allowances paid to Members of Parliament and State Assemblymen, fringe benefits such as free medical attention for themselves and their families, free telephones, free railway passes, transport claims, insurance cover in the event of death while on duty, car loans and free franking of letters were also being accorded them. It was the councillors' submission that they should be entitled to the same privileges or at least some of the privileges. In particular, they wanted accorded to them such fringe benefits as free medical attention for themselves and their families, free telephones and mileage claims.

878. We noted that there is at present no uniformity in the allowances and privileges afforded councillors although the National Council for Local Government in 1960 approved payment of allowances at the following rates:

"(*a*) subject to the necessary amendments being made to existing legislation enabling allowances to be paid to unofficial councillors in addition to subsistence and travelling allowances, depending on the financial circumstances of each local authority, at rates not exceeding in the case of Town Councils $100 per month and in the case of Local Councils not exceeding $20 per month;

(*b*) the maximum amount of entertainment allowance of $150 per month may be approved to Chairmen of Town Councils (unofficial and officials). Where the Chairman is an unofficial member of the Council, he may be paid, in addition, the councillor's allowance not exceeding the maximum laid down in paragraph (*a*) above;

(*c*) the details of the payment should be left to the State Government to decide but should not exceed the maximum laid down in paragraphs (*a*) and (*b*) above;

(*d*) Rural District Councillors might follow the maxima laid down for Town Councillors;

(*e*) wherever possible, these allowances should not be paid earlier than January, 1960;

(*f*) the necessary amending legislation should be taken up at State level."

The National Council for Local Government however was silent on the question of allowances to councillors of municipalities and on the privileges to be afforded councillors.

879. We further noted that the councillors of municipalities are paid allowances at rates not exceeding $200 p.m. The Mayor of the Penang City Council was paid an allowance of $750 p.m. In addition he was paid an entertainment allowance of $250 p.m.

The Chairman of the District Councils in Penang are drawing an allowance of $200 p.m. The President of the Ipoh Municipal Council is paid an allowance of $500 p.m. and an entertainment allowance of $200 p.m. In yet other local authorities, e.g. Town Councils, Town Boards and Local Councils no allowances are paid in view of their weak financial positions. There is, therefore, no uniformity on the subject of allowances to councillors.

880. Likewise in regard to privileges there is no uniformity. In Penang, councillors of the City Council and District Councils enjoy some or all of the following privileges:

Free medical attention for the councillor and members of his family;

Free motor car badge or personal badge;

Special card identifying him as a councillor of his particular Council;

Free supply of Government *Gazettes*, publications, etc., which contain matters of direct concern to his Council;

Refund of postal expenses incurred on official Council correspondence.

In other local authorities elsewhere in the country some of the above privileges are also afforded to councillors.

881. We are of the view that a person aspiring for councillorship should not look to the payment of allowances and privileges accorded to that post as a "job" with a fixed income and definite fringe benefits. He must primarily be motivated by a desire to be of service to the people in his area in particular and to the nation as a whole. He should not view the expenditure incurred in seeking office to local government as a form of investment which should pay handsome dividends if he is successful. At the same time we consider it important that a person should not be made to suffer financial loss purely because he is a councillor. Any payment of an allowance or according of privileges to a councillor whether elected or nominated should be designed so that a councillor is at least reimbursed to the extent of the loss of earning and expenditures incurred in the discharge of his duty.

882. We therefore recommend that councillors should be afforded allowances and privileges as follows:

MUNICIPALITIES—

Allowances:

Mayor	A fixed allowance of $500 per month. An entertainment allowance of $150 per month.
Chairman of the Management Board	A fixed allowance of $150 per month and allowances at the rate of $50 per sitting of the Council, Management Board or of a Committee up to a maximum of $350 per month.
Members of the Management Board	Allowances at the rate of $50 per sitting of the Council, Management Board or of a Committee up to a maximum of $350 per month.
Councillors of Municipalities ...	Allowances at the rate of $50 per sitting of the Council or of a Committee up to a maximum of $250 per month.

Privileges:

Free telephones only for the Mayor and members of the Management Board;

Free medical attention for the councillor and his family;

Mileage allowances in accordance with Government rates;

Free motor car badge;

Special card identifying him as a councillor of his particular municipality;

Free supply of Government Gazettes, publications, etc., which contain matters of direct concern to this Council;

Refund of postal expenses incurred on official Council correspondence.

DISTRICT COUNCILS—

Allowances:

President	A fixed allowance of $400 per month. An entertainment allowance of $100 per month.
Chairman of the Management Board	A fixed allowance of $100 per month and allowances at the rate of $30 per sitting of the Council, Management Board or of a Committee up to a maximum of $250 per month.
Members of the Management Board	Allowances at the rate of $30 per sitting of the Council, Management Board or of a Committee up to a maximum of $250 per month.
Councillors of District Councils	Allowances at the rate of $30 per sitting of the Council or of a Committee up to a maximum of $150 per month.

Privileges:

Free telephones only for the President and members of the Management Board;

Free medical attention for the councillor and his family;

Mileage allowances in accordance with Government rates;

Free supply of Government Gazettes, publications, etc., which contain matters of direct concern to his Council;

Refund of postal expenses incurred on official Council correspondence.

CHAPTER X

ADMINISTRATION

883. In the previous Chapter we have dealt with some aspects of administration in so far as they are relevant to the constitutional and structural scheme of the proposed local authorities. Other aspects of local administration such as status of local government employees, the process of appointment, staffing of local authorities, training and other related matters will be dealt with in this chapter. For a fuller appreciation of all matters relating to administration it will be necessary to read Chapter IX together with this chapter.

STATUS OF STAFF

884. We noted that in respect of the staff of financially autonomous local authorities there is at present no uniformity in the terms and conditions of service, salary scales for the various categories of officers and servants of the authority, and in matters relating to conduct and discipline. These differed from State to State and from local authority to local authority. There is no uniformity also with regard to fringe benefits, e.g., medical benefits, leave, housing allowances, etc., that are afforded to staff of financially autonomous local authorities.

885. It appeared to us that the Municipalities had afforded some measure of uniformity in the terms and conditions of service, salary scales and fringe benefits to their employees, but here again the uniformity was only in respect of certain categories of staff.

886. Some of the financially autonomous local authorities, other than the Municipalities, appeared to have adopted salary scales payable to comparable categories of officers in government service and from time to time implemented Service Circulars and Treasury Circulars issued in respect of Government officers. Many others, although they originally started off by adopting salary scales payable to comparable categories of officers in government service, have not however over the years kept up with the changes effected by the Government in respect of their officers. In matters relating to fringe benefits and conduct and discipline, some authorities adopted those obtaining in respect of government officers whilst most others did not. The reasons furnished for these wide variations obtaining in local authorities were either due to the local authorities themselves being financially unable to afford their staff the same salary scales and fringe benefits afforded by Government to its officers or because the State Authorities would not permit their doing so.

887. The evidence we heard in respect of staff of local authorities can be grouped into three headings:

(i) those who advocated a single integrated local government service;

(ii) those who advocated that all local authority staff should be government servants; and

(iii) those who favoured that staff of local authorities should be the employees of the authority employing them, though there should be some uniformity with regard to terms and conditions of service.

Integrated Local Government Service

888. Those who advocated a single integrated local government service stated that there should be a central body which should be responsible for the recruitment and selection of staff required to serve in local authorities. The central body would be responsible for their appointment, postings and transfers to and from one local authority to another. In other words, officers and servants seeking employment in the local government service would not be free to seek employment in local authorities of their own choice. They will go where they are told to go. Officers and servants of the integrated local government service would be deployed by the central body according to the needs of individual local authorities, having regard to the capabilities of the senior officers of the service. Such a single integrated local government service would, in their view, ensure that all local authorities had a fair share of talent and qualified staff in sufficient numbers according to the needs of individual local authorities.

Staff to be Government Servants

889. Those who advocated that staff of local authorities should be government servants argued that the present practice of empowering the financially autonomous local authorities to appoint their own staff not only failed to ensure that persons with the requisite qualifications were appointed, but also did not provide security of tenure. They said that several local authorities recruited employees not strictly on merits, but rather showed favouritism in their choice. They were appointed without any regard to whether they had the requisite qualifications to enable them to discharge their duties effectively and efficiently. Audit queries were not replied to in time because of the inability of the staff to understand what precisely was required of them. It was because of the poor quality of staff that were recruited by most local authorities that the financial position of the authorities had deteriorated to that obtaining at present. In their view, if all staff to local authorities were government servants, then the Government would invariably appoint through the Public Services Commission personnel with qualification required for comparable posts in the government service. At the moment, the staff of local authorities considered themselves as employees of the elected councillors, and there was no safeguard against victimisation by the councillors. The staff of these local authorities felt that they had no security of tenure and were subject to dismissal according to the whims and fancies of the councillors. As such, most of the staff particularly the senior and junior grade professional officers did not wish to cross swords with the councillors as they felt that their positions were not secure. Prudence therefore demanded that they should submit to the dictates of the councillors. They pointed out that the position would, however, be different if the staff of local authorities were to be government servants. As government servants they would feel more secure in their position and would be able to discharge their duties and functions effectively and efficiently without the councillors interfering in their work. Mobility of staff of local authorities would also be assured in that staff of local authorities could be transferred from one local authority to another or for more competent staff from other government departments to be transferred to serve in local authorities.

Staff to remain as Employees

890. Most of the councillors who gave evidence were in favour of maintaining the *status quo*, i.e. that local authorities should continue to be the employers of their staff. They were not in favour of the establishment of a distinct single integrated local government service, nor were they in favour of staff of local authorities being government servants. Their fear was that the staff would then not pay any heed to their advice or give the councillors the respect and regard due to them as elected members of the people of that locality. They said that the staff would invariably look to the Government or the central body (in the case of an integrated local government service) as their employers and would be insensitive to the suggestions of the elected councillors. As elected councillors they were not only responsible to the electorate to get things done the way the electorate wanted it, but they were also responsible for the administration of the authority. Their position *vis-a-vis* the electorate would be untenable if they were not to have effective control of the administrative officers of the authority. Those who gave such evidence, however, were not generally against a scheme of uniform terms and conditions of service to be drawn up on a competitive basis for the employees of local authorities throughout the country with sufficient safeguards against administrative interference by the elected councillors.

891. In this connection we were informed that it was the Federal Government's intention as early as 1960 that the local government service should be a service separate from government service and that the local authorities should employ their own officers and servants. It is to be noted here that Government had all along accepted the principle that local authorities should be empowered to independently appoint their own employees. The independence of the local government service from government service was not only to be reflected in the terms and conditions of service applicable to officers and servants who serve in financially autonomous local authorities, but also in their choice to operate a Provident Fund Scheme. Provisions were also to be made in the law for staff of local authorities to seek employment in another local authority without loss of their superannuation rights. It was for this precise reason that the Local Authorities (Conditions of Service) Act, 1964 was passed by Parliament. Section 4 of this Act empowers the Minister for Local Government and Housing, with the approval of the Treasury, to make Regulations governing the terms and conditions of service, e.g. the qualifications, salary scales, fees and allowances payable, period of service, transfer, exercise of discipline and conditions under which gratuities or compassionate allowances may be payable to officers and servants of local authorities. Section 5 of this Act also empowers the Minister to establish a Provident Fund or joint Provident Fund in respect of two or more local authorities for the benefit of their officers and servants. For the Regulations to be made applicable in any local authority the Ruler/Governor-in-Council of a State must by an Order notified in the *Gazette* declare that local authority as being subject to the provisions of the above-quoted Act.

892. We were informed that a Committee appointed by the National Council for Local Government to draft for its consideration uniform terms and conditions of service for employees of financially autonomous local authorities which could be passed as Regulations under the said Act has, however, not been able to make definite recommendations in this regard. It was the Committee's view that any recommendations made

thereon had to have some relation to the salary scales pertaining to corresponding categories of officers in the government service. We were told that the Committee could therefore make its recommendations only after having had the benefit of knowing what salary scales were being recommended for government servants by the Justice Suffian Salaries Commission and also after having known what is to be recommended by our Commission.

893. We are of the view that staff of local authorities should be the employees of the local authority employing them and are therefore against a single integrated local government service responsible for the appointment, postings and transfers of local government officers to and from one local authority to another. We believe that persons seeking employment in the local government service should be free to seek employment in the local authorities of their own choice. We further consider that staff of local authorities should be free to leave the service of one local authority to seek employment in another authority. As employees of the local authority that appoints them, they would be better able to identify themselves with the aspirations and objectives of the authority which they serve. It would also develop among the staff of a local authority a sense of loyalty to that authority which they serve.

894. For the same reasons, we are unable to accept the suggestion that staff of local authorities should be government servants. Our view is that such an integration is not desirable. It will cut across the very concept of local government. Essentially, a local government is a statutory body. It is not a government having a constitutional right of existence. Its existence or non-existence is a legislative prerogative of a State Authority. Its life therefore is precarious. The essence of this truth cannot be denied. A fortiori, the legal position of those who serve a local authority should naturally coincide and harmonise with the legal position of that local authority.

895. It is a fair proposition to state that unless a local authority is converted into a constitutional local government those who serve a statutory local authority cannot be integrated into government service. No doubt a government servant may serve a local authority on secondment. This is a different matter altogether. Such a person remains a government servant even though he may serve a local authority on a full time basis. Likewise every person required to serve a local authority may be seconded by the State or Federal Government. In such a case the concept of a decentralised local authority itself will have to be fundamentally modified. As stated earlier one of the attributes of decentralisation is autonomy which includes administrative autonomy. If a local authority is to be decentralised then the autonomy must be recognised.

896. Furthermore for any local authority to thrive and throb it must be given some degree of local zeal and initiative. To translate its initiative into reality a local authority should have the autonomy to choose the type of persons it prefers to manage its affairs. Again the modern concept of local government is not one of administration, but rather management. The services of a local authority will have to be managed and not merely administered. Therefore a local authority is obliged to select officers who can serve with managerial and innovative qualities. For this, a local authority should have the decentralised autonomy to choose its servants.

897. At the same time we appreciate that absolute power of appointment and dismissal of staff by local authorities could lead to abuse by irresponsible councillors. If staff of local authorities are to be expected to give of their best, they must be assured of

security of tenure. It is therefore important to have built-in provisions to prevent abuses in the appointment and dismissal of employees of local authorities. We are of the view that appointment of employees should be the responsibility of the local authorities. Interviewing and selection of candidates for the approval of the full Council may be made by the proposed Finance and Establishment Committee of a local authority. It is necessary for the Secretary to the local authority to sit as a member of this Committee when applicants are interviewed for selection. Though the granting of the power of appointment is in keeping with the decentralised concept of local government, we are not all that certain that it is advisable to grant the power of dismissal of the employees to the local authority. In this respect it is not out of place to quote the views of Justice Lee Hun Hoe expressed in his Report of the Commission of Inquiry into the affairs of the Seremban Town Council. He says:

> "To prevent unnecessary interference by the Councillors against these officers in the exercise of these powers and to ensure the security of their office these officers should be protected by legislation to the effect that they shall not be removed from office without the approval of the Ruler-in-Council."

We are inclined to accept the principle contained in the views of Justice Lee Hun Hoe with some modifications. In our view the State Authority need not be granted the power of removing all the employees of a local authority. Such power, however, should only be granted in respect of employees above those of the Industrial and Manual Group. This power of the State Authority should be delegated to the State Commissioner of Local Government. On the recommendation of a Council as a whole or a Secretary to the local authority, the State Commissioner of Local Government may remove an employee concerned (i.e., one who is above the Industrial and Manual Group) from service after initiating such enquiries as he may consider necessary having regard to the principles of natural justice.

898. We further consider that it is desirable that there should be throughout the country uniformity in the conditions of service of officers and servants of local authorities, particularly with regard to qualifications for appointment, salary scales and discipline of local government officers. The guiding principle should rightly and equitably be that the terms and conditions of service of employees of local authorities should not be less advantageous or favourable than those of the corresponding officers in government service. This to our mind appears the only possible way to ensure that competent and qualified personnel can be recruited by local authorities in the face of growing demands from industries, government service and from other types of employment for such personnel. In these places, service conditions are fairly attractive and unless local authorities match up to them they would not be able to attract suitable candidates into their services.

899. On the subject of Provident Fund contributions in respect of employees of local authorities, we are not in favour of individual local authorities operating their own Provident Fund or for that matter setting up a Joint Provident Fund in respect of two or more local authorities. We advocate the establishment of a Central Provident Fund for all employees of all local authorities in the country. A Central Provident Fund for employees of all local authorities would not only make possible economies in the maintenance and administration of the accounts of its contributors, but also would obviate frequent transfers of contributions from one Provident Fund to another in the

event of transfers of employees from one local authority to another. A Central Provident Fund would also be in a better position to declare higher dividends to its contributors because of the savings effected in terms of administrative costs in operating the Fund and the large resources at its disposal that can be effectively invested to ensure maximum returns.

900. We therefore recommend that:

(i) local authorities should have the power to employ their own employees;

(ii) interviewing and selection of candidates for employment may be made by the Finance and Establishment Committee or any other suitable Committee of the local authority subject to the approval of the Council. The Secretary to the local authority should be a member of this Committee;

(iii) dismissal or removal of any employee above the Industrial and Manual Group should be effected by the State Commissioner of Local Government on the recommendation of the Council or the Secretary to the local authority. Such dismissal should be effected after due enquiry having regard to the principles of natural justice;

(iv) dismissal of employees in the Industrial and Manual Group should be the responsibility of the Secretary to the local authority;

(v) the conditions of service of employees of local authorities particularly with regard to their qualifications for appointment, salary scales and discipline should be uniform throughout the country;

(vi) terms and conditions of service of local authority staff should not be less favourable or advantageous than those obtaining in respect of corresponding officers in the government service;

(vii) there should be a Central Provident Fund in respect of staff of all local authorities throughout the country;

(viii) the Committee appointed by the National Council for Local Government to recommend uniform terms and conditions of service should submit its recommendations with the minimum of delay immediately a decision is taken by Government on the recommendations in the Report of the Justice Suffian Salaries Commission and on those in this Report.

ADMINISTRATIVE CONTROL

901. The power of the State Governments to approve budget estimates of local authorities and that of the District Officers in respect of Local Councils' budget estimates were criticised in numerous places. Most of the witnesses who gave evidence in this regard were councillors of financially autonomous local authorities. Let us see what are the controls that are exercised by the State Governments and the District Officers respectively, and how these controls were exercised.

902. All financially autonomous local authorities in the country are empowered by law to appoint their own staff. The staff of these local authorities are therefore the employees of the individual local authorities appointing them. These authorities have also the power to terminate the services of their employees.

903. The appointment of the Secretary to the Municipality of Penang, Ipoh or Malacca is by the Ruler or Governor of the State concerned. Likewise his removal from office as Secretary to the Municipality can only be effected by the Ruler or Governor of the State concerned. The same position obtains in respect of the Secretaries to the Rural District Council, Penang Island, and the 3 District Councils in Penang which all operate under the Municipal Ordinance (S.S. Cap. 133).

904. Under section 16 of the Municipal Ordinance the Secretaries to the Municipalities of Ipoh and Malacca are required each year to submit a list of offices carrying a commencing salary of $300 a month and above for confirmation by the respective State Authorities. The selection and appointment of persons to fill these offices or their dismissal are left to the Council. The Secretaries to the above Municipalities may appoint or remove persons from posts carrying a commencing salary of less than $200 a month, but in respect of appointment to and removal of persons from posts carrying a commencing salary of $200 a month and above have to be with the approval of the Council. However, the Penang City Council, the Rural District Council on Penang Island, and the 3 District Councils in Penang, by an amendment to the above-quoted section of the Ordinance, are only required to seek the confirmation of the State Authority to offices carrying a commencing salary of $500 a month and above. Approval of the Councils is only required in respect of appointment to or removal of persons from posts with a commencing salary of $350 a month and above. In all other cases the Secretary to the Council has the power to independently appoint or remove persons from office.

905. The State Governments have an added check over the power of the Municipalities, the financially autonomous District Councils and the Rural District Council in the appointment of staff on their establishment in that the budget estimates of these authorities have to be approved by the State Authority.

906. The position in regard to the employment of officers in the Town Boards and Town Councils, whether or not financially autonomous, is slightly different. Under Section 3 of the Town Boards Enactment, the State Authority is empowered to appoint, by notification in the *Gazette*, certain specified officers and such other officers as may be necessary for the purposes of the Enactment. However, in practice this has not been strictly followed. Most financially autonomous Town Councils and Town Boards have been appointing their officials on their own and merely got the appointments notified in the *Gazette* through the good offices of the State Authority. However, since the budget estimates of Town Councils and Town Boards have to be approved by the State Authority these local authorities cannot therefore create new posts, upgrade posts or allow for increments other than normal increments to the salary scale of any officer without the agreement of the State Government to their inclusion in the estimates. The staff of non-financially autonomous Town Councils, Town Boards and the 3 Rural District Councils in Malacca are recruited by and remain the employees of the respective State Governments. Being State Government employees, they are transferable from these local authorities to other departments of the State and vice versa.

907. Local Councils are, however, not required by law to obtain the agreement of the State Authority to the appointment of any of their officers save in the case of the Secretary/Treasurer where the approval of the District Officer must be obtained. As the budget estimates of Local Councils have to be approved by the District Officer, the District Officer has therefore indirect control over the Local Councils in the appointment of staff and their salary scales.

908. In short, the State Governments, by virtue of the fact that budget estimates of all local authorities (excepting Local Councils) have to be approved by the State Authority, have a check on the power of the local authorities to create new posts, upgrade posts or allow for increments other than normal increments to the salary scales of its officers. In respect of Local Councils, the District Officers exercise this control.

909. In the case of Municipalities, we were urged that Section 16 of the Municipal Ordinance (S.S. Cap. 133) requiring that a list of all offices carrying a commencing salary of $300 a month and above ($500 a month and above in the case of Penang City Council and the District Councils in that State) to be confirmed by the State Authority should be done away with. A less extreme view was that only in respect of offices carrying a commencing salary of $1,254 a month and above need be confirmed by the State Authority.

910. The majority of councillors of financially autonomous local authorities, including Local Councils, were against the State Government and the District Officer, as the case may be, being empowered by law to approve their budget estimates. In their view the salaries of staff of the authorities were paid entirely from their own resources without the State Government in any way contributing towards the payment of salaries of their staff. As such, the State Governments should not have the power to dictate what categories of staff and in what numbers the local authorities should employ and what salaries and privileges should be accorded by the local authorities to their staff. They argued that since they were financially autonomous they should have absolute autonomy in the creation of posts, the fixing of salaries and the granting of privileges to their staff. They pointed out that the power of the State Governments to approve their budget estimates had an inhibitive effect on their ability to attract and retain qualified staff on their establishments. Similar arguments were also made by councillors of Local Councils against the power of the District Officer to approve their budget estimates. More specifically councillors wanted the particular provision requiring local authorities to obtain the approval of the State Authority to their budget estimates (the District Officer in the case of Local Councils) to be deleted from the various laws governing local authorities.

911. Against this line of argument, several State Governments gave evidence to the effect that it was imperative that the present requirement of obtaining the approval of State Governments to the budget estimates of local authorities should be retained. In the absence of such requirement it could well lead to abuses by local authorities. From their point of view it was important to ensure that the salaries and privileges accorded to the staff of local authorities should not be substantially more than that granted by Government to corresponding officers in the government service because of the possible adverse repercussions it would have on the government service. Already as it were, certain senior officers of a few local authorities were drawing higher salaries and enjoying better privileges than those granted to their counterparts in the government service. It was further alleged that appointments to posts in certain local authorities were not made in strict accordance with established service principles, but rather governed by political considerations. Instances were cited where there had been improper interference by councillors in the appointment of staff to the local authorities. In the City Council

of Georgetown, out of 120 applicants for the posts of scavenging inspector and night-soil supervisor, two persons of the Labour Party were given the posts by the City Council then in control of the Labour Party. These two men were in fact defeated candidates at the local government elections held earlier. Of the two selected, one had earlier been declared to be medically unfit for work. In other instances labourers' jobs were also alleged to have been given by the parties controlling the authorities to their members, supporters and sympathisers without reference to the Employment Exchanges to nominate suitable persons for selection by the authorities. In the Malacca Municipality, it was alleged that the Socialist Front in power had appointed 200 Party supporters as labourers although the Municipality had no real need for extra labourers. Consequently, most of these labourers had no work to do and to keep them occupied they were deployed to repaint the gravestones of a cemetery within the Municipality.

912. We are satisfied that State Governments should have the power to approve budget estimates of local authorities as otherwise it could well lead to abuse by irresponsible local authorities. We further consider that all posts on the establishment of the local authorities should be approved by the State Authority.

913. We therefore recommend that:

(i) the State Authority should continue to have the power to approve or disapprove budget estimates of local authorities;

(ii) all posts on the establishment of local authorities regardless of the salary scales should be approved by the State Authority.

STAFFING OF PRINCIPAL OFFICERS

914. All Municipalities have on their establishment senior administrative and technical officers to discharge the functions of the local authority. Because of their financial strength and the resources at their disposal they are able to attract competent personnel and employ such numbers of staff both in the senior and junior grades as are necessary to effectively discharge their functions. It was pointed out to us that the revenue of the Penang City Council was higher than that of the entire revenue of the Penang State Government. The narrow gap of revenues between the State Government and the Municipality of Malacca was also focussed. The City Engineer of the Penang City Council was drawing a salary higher than that of the State Engineer, Public Works Department, Penang. The take-home pay of the Medical Officer of Health in the Malacca Municipality was reported to be the highest in the State even exceeding that of the State Secretary. Because of the relatively higher salary scales offered for all categories of officers and the fringe benefits accorded by the Municipalities, these authorities were not only able to attract competent personnel but also retain their services. Consequently, the administrative machinery of all the Municipalities was not only relatively more efficient but also the services rendered covered a much wider field of activity and of a standard higher than those of other local authorities.

915. With few exceptions, financially autonomous Town Councils, Town Boards and District Councils by and large have to rely on the Federal and State Governments for the services of the Medical Officers of Health, Executive Engineers, Public Health Inspectors and clerical staff. Several financially autonomous local authorities have on their staff Public Health Inspectors and clerical staff of the Federal and State services respectively, seconded on a full time basis with these local authorities, and their salaries

are met from the funds of the authorities. Where financially autonomous local authorities are not financially viable to employ their own Executive Engineers and Medical Officers of Health or where they are financially able to do so but are unable to recruit suitable officers of these categories they have perforce to draw on the services of the District Executive Engineer or District Medical Officers of Health of the District in question.

916. In the case of non-financially autonomous Town Councils and Town Boards, the Town Boards Enactment specifies that the Medical Officer of Health and the Executive Engineer shall sit on these Boards as ex-officio members.

917. The Local Councils Ordinance does not provide for the Executive Engineers or the Health Officers to be members of the Local Councils, and the Councils can hardly afford to employ their own Executive Engineers and Health Officers. As such they have to rely entirely on the assistance given by the District Engineer, the District Medical Officer of Health and the Government Public Health Inspector who are all Federal officers serving with the State Governments in the District.

918. The evidence we heard in regard to staffing problems was therefore mainly directed to staffing of the principal officers in all the local authorities other than the Municipalities. It was made out to us that most of the local authorities in West Malaysia, with the exception of the Municipalities, did not have the financial wherewithal to appoint and retain the services of the principal officers of the authority, e.g. Secretary to the Council with legal or some equivalent qualification, Executive Engineer and Medical Officer of Health. For the same reason local authorities were also not able to employ officers in the lower grades in such numbers as were needed to undertake and discharge the functions of the authority satisfactorily. Many of the local authorities did not have proper salary schemes for the various categories of employees, and the staff employed were more often than not underqualified and lacking in proper knowledge of the functions of local government administration. Professional officers also appeared not too keen to seek employment with local authorities, other than the Municipalities, because of the unattractive salary scales and the lack of promotional prospects within the authority.

919. The role of the District Officer as Chairman of the Town Councils, District Councils, Town Boards and adviser to Local Councils also figured very prominently during our enquiries. The evidence we heard in regard to the role of the District Officers and the various categories of principal officers are dealt with under their relevant headings.

920. *District Officers.* With the exception of the Town Councils in Seremban, Alor Star, Kuantan, Bentong, Temerloh/Mentakab, Raub, Kuala Lipis, the Rural District Council in Penang Island, the District Councils in North Province Wellesley, Central Province Wellesley and South Province Wellesley where the Chairman is a person from amongst the elected councillors, the District Officers in the respective Districts are the Chairman of the rest of the Town Councils, the Town Boards and the Malacca Rural District Councils. The District Officer apart from being the Chairman of these Councils and Boards is also required to execute the decisions of the Councils or Boards.

921. It was pointed out to us that the District Officers were far too busy with their work in the district and land offices and, as such, they did not have the time to pay serious and regular attention to the affairs of the local authorities. With few exceptions

they were more concerned and interested in land and the district administration and showed little interest in the work of the local authorities. We were told that development projects consumed a good deal of their time. Usually a District Officer would delegate to the Assistant District Officer the task of chairing the meetings of local authorities and to attend to their affairs. In most cases the Assistant District Officers were either too junior in service or inexperienced in local government administration. In addition, the Assistant District Officers also had to undertake land and district administration work, and consequently could not give all their time and attention to the administration of local authorities.

922. Furthermore there were too many local authorities in a district for the District Officer and the Assistant District Officer to give them their undivided attention. Frequent transfers of District Officers and Assistant District Officers had an adverse effect on local government administration resulting in lack of continuity of action and efficiency of the local authorities. The dual role the District Officer was called on to perform often gave rise to conflicts. It was said that his loyalty could not but be divided. On the one hand as Chairman of the local authority he was duty-bound to execute the decisions of the Council, whilst on the other as the District Officer and the agent of the State Government in the District he was required to make decisions on matters affecting the local authority. In cases of conflict he would either take the side of the State administration or defer action indefinitely. This gave rise to numerous and inordinate delays in the implementation of the local authority's decisions. Although the Town Boards Enactment provides for the District Officers to take action against persons defaulting in the payment of rates and persons contravening the laws and by-laws of the local authorities, the District Officers were reported to have avoided or delayed instituting action against defaulters or offenders because they were reluctant to commence actions when the councillors themselves were not very keen to do so.

923. In the case of Local Councils, the Chairman is an elected councillor and the District Officer's role in the affairs of the Local Council is limited to a supervisory role though he is the approving authority for budget estimates of the Local Council and draft by-laws made by it. He is supposed to be the watch-dog and advise the councillors whenever necessary on matters relating to Local Council administration; but here again the District Officer had little time or interest in the affairs of Local Councils. Usually the Chinese Affairs Officer was the person who did have relatively more contact with the Local Councils, and it was he who gave general advice to these Councils on how to administer their affairs. Even the Chinese Affairs Officer because of his multifarious duties was not in a position to devote much of his time to Local Councils.

924. *Secretary*. Although the various local government laws vaguely specify the functions and responsibilities of the Secretary to financially autonomous local authorities they are silent, however, on his position *vis-a-vis* other principal officers within the authority. In respect of non-financially autonomous local authorities the law does not make any mention whatsoever as regards his role.

925. In the case of the Secretary to a Municipality, the Municipal Ordinance specifies that the Secretary shall each year prepare the Municipal budget for approval of the councillors prior to submission for approval by the State Authority. It also empowers him, without having to seek the confirmation of the Council, to appoint to or dismiss

officers from posts with a commencing salary below a specified figure. He is further empowered to execute on behalf of the Council contracts authorised by the Council. In cases of emergency he is empowered to direct the execution of any work which in his opinion is "necessary for the service or safety of the public" without the prior approval of the Council, though in all such instances he should report his actions to the Council at the following meeting of the Council. No mention whatever is made in the Ordinance of his position in relation to the other principal officers of the Council or with the councillors or how he should co-ordinate the various activities of the different departments of the Municipality.

926. In respect of financially autonomous Town Councils with an elected Chairman or President, the law specifies that the executive duties and functions of the Chairman under the various Town Boards Enactment be conferred on and be exercised by the Secretary to the Council. More specifically, the executive duties and functions exercise-able by the District Officer as Chairman of the Board are exercisable by the Secretary to financially autonomous Town Councils with an elected Chairman or President.

927. Notwithstanding the lack of legal provisions, through custom and practice over the years, a great deal of the executive work and supervision of the administration of the Council devolves on the Secretary. It is the Secretary who is expected to co-ordinate the work of the various departments of the authority and report on the progress made on decisions of the Council at council meetings. In the absence of any clear and precise provisions in the law in regard to the duties and responsibilities of the Secretary the degree of control the Secretary of a Council exercises varies from Council to Council, depending largely on the personality, drive and leadership of the Secretary.

928. In the Municipalities of Penang, Ipoh and Malacca the Secretaries of the Municipalities are all lawyers. Their position *vis-a-vis* the principal officers of the Municipality is one of *"primus inter pares"* or "first among equals". They are responsible to the Council for the execution and management of the affairs of the Municipality and generally the co-ordination of the various departments. On the whole the Municipal Secretary plays a very effective role in the affairs of the Municipality. The same cannot be said of the District Councils in Province Wellesley and the Rural District Councils in Malacca. In each of the District Councils in Province Wellesley the District Officer serves as the Secretary. In the case of Malacca the District Officer is the Chairman and a clerk of the State Clerical Service serves as Secretary to the Rural District Council. Clearly this is not a satisfactory arrangement in view of the multifarious responsibilities that a District Officer has to shoulder about which mention has been made earlier.

929. The position is somewhat different in the Kuala Lumpur Municipality where the heads of departments and the Secretary to the Municipality are individually responsible to the Commissioner on matters relating to their respective departments.

930. Only very few financially autonomous Town Councils have Secretaries with legal or similar qualification. Where a financially autonomous Town Council was able to employ a Secretary with professional qualifications the affairs of the Council appeared to be functioning with greater efficiency with the Secretary playing the leading role among the officers of the authority. In most cases where the Secretary was underqualified he could seldom play a leading role over the principal officers who were better qualified than himself. It was fairly obvious that the Secretary in such Councils was not generally responsible for the administration as a whole. He, however, worked in liaison

with the other principal officers, each of whom was individually and often directly responsible to the Council in regard to his function. Without the advantage of a tertiary education such a Secretary cannot be expected to comprehend the provisions of the relevant laws and the principles and practice of local government administration. Not being able to co-ordinate the activities of the various departments of the Council he was more confined to the clerical work of the Council. If at all he exercised administrative control, this was limited to the lower grades of the staff of the Council. Being underqualified he was in no position to advise the Council or assist the Council in policy formulation. Consequently, it was not surprising that financially autonomous Town Councils with Secretaries without professional or administrative qualifications were functioning in a far from satisfactory manner. The situation was no different in the case of financially autonomous Town Boards.

931. The Secretaries to non-financially autonomous Town Boards, being deconcentrated departments of the State Government, were usually Special Grade Clerks from the State Clerical Service. However, the chief executive to these Boards was the District Officer himself. Whatever control and co-ordination that had to be introduced were the primary responsibilities of the District Officer but for the reasons already stated he did not have the time or inclination to do these and generally left the day-to-day administration and control of staff largely in the hands of the Secretary of the Board. Small wonder that most of the Town Boards despite their deconcentrated nature and the absence of elective representation therein were not functioning as the epitome of efficiency.

932. Most of the Local Councils could not for financial reasons employ a Secretary solely to perform the functions of the Secretary. He was often required to serve as the Secretary and Treasurer for both of which he was little qualified. At best most of the Secretaries selected had no more than a secondary education in an English school. In a number of cases the Secretary had had only a vernacular education in a Chinese school with a smattering of knowledge in the English language. In general, the Secretaries or Secretaries/Treasurers in Local Councils showed an appalling lack of comprehension of the relevant laws and by-laws, with little or no experience in basic administration, book-keeping and accounting as to enable them to administer the affairs of the Councils with a minimal degree of efficiency.

933. *Executive Engineers.* As mentioned earlier most of the local authorities due to their financial resources were unable to employ qualified Engineers and where this was the case had to rely on the assistance given by the Executive Engineer serving in the District. The Executive Engineer is responsible for the execution of all Federal and State projects in the District. Supervision of rural development work in the District itself took a great portion of his time. There were also too many local authorities in the District for him to attend all their meetings and advise or supervise their projects. Consequently he had very little time to spare for the projects of individual local authorities. Not unnaturally the councillors would find him unappreciative and lacking in interest in the projects of the local authorities. Because he is usually busy with Federal and State development projects, applications for building plans, etc., of the local authority are given very little priority by him, thereby causing delays in development in the local authority area. Section 94 of the Town Boards Enactment (F.M.S. Cap. 137) states that the Board should within two months of receipt of plans approve such plans or make written requisition with regard thereto. Failure to do so by the Board would

entitle the person making such application to submit it direct to the Ruler-in-Council and the powers vested in the Board with regard to such plans shall then vest in the Ruler-in-Council. In most cases the Town Council or Town Board has very seldom been in a position to give its approval or otherwise within the specified period, largely because the Engineer who is the only person qualified to consider and advise on such matters is unavailable most of the time. However, the Commission noted that instances of such applications direct to the Ruler-in-Council have in the past been very few, largely because members of the public appeared not to have been aware of this particular provision of the law.

934. *Medical Officers of Health.* Here again where the local authorities were unable to employ their own Medical Officer of Health they had to rely on the Medical Officer of Health in the District for advice and assistance in matters relating to health and sanitation within the local authority area. We were told that he was too busy to attend meetings of the Council and often he was deputised by his subordinate officer, namely the Public Health Inspector to attend on his behalf.

935. On the other hand we heard evidence from Medical Officers of Health that there were too many local authorities in a District for them to attend all meetings of the authorities and the affairs relating to health of the authorities. They also felt frustrated because local authorities did not seem favourably disposed towards the advice given them. This was particularly so in local authorities with an elected majority because acceptance of their advice meant enforcement of health regulations by local authorities which would make the councillors unpopular with the electorates. Even where councillors accepted such advice they were unwilling or unable to implement it. They also complained that they had very little control over the Public Health Inspectors and other personnel involved in health and sanitation matters who were the direct employees of the local authorities. They said that these employees paid scant regard to their assignments and little heed to their instructions.

936. *Public Health Inspectors.* It was made out to the Commission that very few local authorities could afford to employ Public Health Inspectors on their establishment. The position was further aggravated by the fact that the supply of trained Public Health Inspectors was far short of the demand for this category of officers. All local authorities that were unable to recruit their own Public Health Inspectors had to rely entirely on the services of the Government Public Health Inspectors who not only were very busy in discharging the functions of their parent departments but also have little sympathy for the affairs of the local authorities. This aside, Public Health Inspectors in addition to their work involving health and sanitation matters were often called on to undertake tasks of a building inspector or technical assistant. Not too infrequently the Public Health Inspectors were called on to attend meetings of the local authorities whenever the Medical Officers of Health were unable to attend such meetings. Because of the numerous local authorities within a District, the Public Health Inspectors themselves were not able to be present at every meeting of every local authority or to ensure that follow-up action on their advice was being acted upon.

937. *Junior Grade Officers and Labourers.* Generally, most of the financially autonomous local authorities were unable due to financial difficulties to recruit junior grade officers and labourers in sufficient numbers to effectively discharge their duties and functions. The staffing situation in most Local Councils was far from satisfactory and in fact most ludicrous. Most of the Local Councils could only afford to appoint a

Secretary who was also Treasurer of the Council and a labour force numbering less than half a dozen to undertake the scavenging and conservancy work of the authority area.

938. To summarise, only the Municipalities with the vast financial resources at their disposal were able to recruit staff at all levels in sufficient numbers to discharge effectively the functions of the authority. With very minor exceptions financially autonomous local authorities were by and large not in a position to employ senior technical or professional officers and junior grade officers and labourers in sufficient numbers to effectively discharge their functions. Even in the few cases where such authorities were financially in a position to employ their own senior technical and professional officers, they were unable to do so because professional officers were not attracted to seek employment in these authorities due to the lack of promotional prospects within the authority. Where financially autonomous local authorities had to rely on the services of government professional officers, they had to put up with all the indifference and lack of appreciation by these professional officers of the authorities' aspirations and objectives with the consequent delays in the implementation of their development and other projects. The position was no different in non-financially autonomous local authorities. Local Councils, as explained earlier, had to rely entirely on the services of the professional officers in the government service. To these government officers the affairs of the Local Councils figured lowest in their order of priorities. In fact, as far as they were concerned the affairs of the Local Councils were of the least interest to them. Not unnaturally Local Councils with lack of guidance and interest from professional officers, their low state of finances and shortage of labour force were left to flounder on their own.

939. We are of the view that under the proposed restructured local authorities they should have sufficient viability to employ such number of junior grade officers and labourers required by them to discharge their functions efficiently. With uniform terms and conditions of service comparable to those in respect of corresponding officers in the government service there should be little difficulty in attracting officers of these categories to seek service with the local authorities. The difficulties encountered by having the District Officer as the Chairman or as executive officer or as adviser to the local authority would no longer obtain in the proposed structure because we have recommended that the chief executive of the local authority will henceforth be the Secretary to the local authority. There will be no role for the District Officer as such to play in the newly re-structured local authorities. But we believe that for the next several years or so there will continue to be a shortage in relation to demand for Secretaries with professional qualifications, Engineers, Medical Officers of Health, Public Health Inspectors, etc. This fact is further borne out by the Report of the Committee on Higher Education. In the face of demand for the services of these officers both by the Government and the private sector, local authorities might not be able to attract and retain the services of some of these categories of officers. Whilst the proposed structural reforms would enhance the ability of most local authorities to employ directly officers of these categories there would still be a few local authorities which for some years to come might not have the financial stability or viability to employ the full range of the qualified officers. It is possible that even where local authorities are financially able to employ officers of these categories they may yet not be able to attract such officers to their service.

940. We are of the view that if local authorities are to discharge their functions effectively and efficiently they should have in their employ such number of qualified officers as would be required and to this end it should be incumbent on the Federal and State Governments to provide such officers. Where local authorities are financially able to employ their own officers but are unable to attract such officers to serve with them the Federal or State Government should provide by way of secondment on a full-time basis the required officers. In such circumstances the local authorities should be required to meet the salaries and allowances of the officers so seconded. In cases where local authorities are not in a financial position to employ officers of these categories, the Federal or State Government should second the required officers on a full-time basis to the service of local authorities and also meet the salaries and allowances of these officers.

941. We therefore recommend that:

(i) the Federal or State Government as the case may be should provide local authorities on full-time secondment professional and technical officers as required by them;

(ii) financially strong local authorities should be required to meet the salaries and allowances of the officers so seconded;

(iii) the salaries and allowances of officers seconded to financially weak local authorities should be paid by the Federal or State Government as the case may be.

PENSION LIABILITY OF SECONDED OFFICERS

942. In this connection our attention was drawn to the question of pension contributions in respect of Federal Government officers seconded to serve on a full-time basis with financially autonomous local authorities. Over the years, the original number of officers of this category has been progressively reduced as a consequence of their gradual replacement by staff directly recruited by these local authorities. To-day they number less than 30. In the main the officers still on secondment with these authorities are public health inspectors and clerical staff.

943. Under the Pensions Ordinance the Federal Government is responsible for payment of pensions, gratuities, etc., in respect of these officers even for the period they are on secondment with local authorities. Apart from paying the full emoluments to the officers on secondment, all the local authorities concerned have not been paying any pension contributions to the Federal Government in respect of these officers.

944. Early in November 1962 the Federal Government in an effort to arrive at some permanent arrangement with local authorities on the future of these officers and in anticipation of the introduction of uniform terms and conditions of service for staff of local authorities made the following proposals to the local authorities concerned:

"(*a*) *Permanent and Pensionable Officers*—

It is proposed that for this category of officers, their service with Local Government Authorities should be regarded by administrative action as "other public service" within the meaning of Section 2 of the Pensions Ordinance (No. 1 of 1951) and that a date should be fixed for their *transfer* to the Local Government Service and that with effect from that date they should be called upon to

contribute towards the local authorities Central Provident Fund (which will be established under Clause 4 (1) of the new Local Government Service Act) at a rate which should take into consideration their previous service with the Government. The local authorities concerned should pay a pension contribution of 25% of pensionable emoluments to the Government from the date of commencement of their actual service with the local authorities or from the date the latter became financially autonomous whichever was the later, up to the date of their transfer. The Government should pay these transferred officers the retirement benefits earned up to the date of transfer when they finally retire in normal circumstances from the service of the local authorities concerned.

(*b*) *Permanent and Non-pensionable Officers—*

It is proposed that the date of their transfer to the Local Government Authority should also be fixed and that with effect from that date they should contribute towards the local authorities Central Provident Fund—their previous service with the Government should be counted for the purpose of determining the rate of contribution on entry into the service with the local authority. From the date of their actual service with the local authority up to the date of their transfer, the local authority concerned should pay a contribution of 17% of personal emoluments to the Government. As in the case of the permanent and pensionable officers, Government would pay a proportionate amount of retiring benefits, when they finally retire in normal circumstances, based on their service up to the date of their transfer to the local authority.

(*c*) *Daily-rated Employees—*

It is proposed that these employees should continue to contribute towards the Employees Provident Fund and that Service Circular 8/59 detailing the norms relating to the retiring benefits of these employees should be applied when they retire. Government's liabilities under the norms should be fully discharged by Government calculated on service with Government only.

(*d*) *Death Gratuity—*

It is proposed that the local authority concerned and Government should pay a proportionate amount of these gratuities based on length of service.

(*e*) *Injury Benefits—*

It is proposed that this would be entirely the responsibility of the local authority concerned since length of service has no bearing on the amount payable for such benefits. The local authority should meet this commitment by taking out appropriate insurance policies.

(*f*) *Marriage Gratuity to Women Officers—*

It is proposed that the local authority concerned and Government should contribute proportionate amounts based on length of service with local authorities and Government respectively.

(*g*) *Widows and Pensions Scheme—*

It is proposed that the officers concerned should continue to pay their contributions to Government."

945. Whilst the vast majority of the local authorities concerned were prepared to accept the proposals (*c*) to (*g*) above, most of them were not prepared to accept proposals (*a*) and (*b*). It was the contention of these local authorities that they should not be required to pay pension contributions at the rate of 25% of pensionable emoluments in the case of pensionable officers and 17% of salary in the case of non-pensionable officers from the date of commencement of the officer's actual service with the local authorities, but only with effect from the date the officer opts to become an employee of the local authority.

946. We have given careful consideration to this matter and having regard to the financial position of most of the local authorities we are of the view that local authorities should not be made to pay pension contributions on the basis of (*a*) and (*b*) above in respect of the officers who have so far served or are serving with local authorities. As mentioned earlier, the committee appointed by the National Council for Local Government to draft uniform terms and conditions of service for staff of local authorities has understandably not been able to make recommendations in this regard until a decision is taken by Government on the recommendations in the Justice Suffian Salaries Commission Report and our recommendation on the future of local authorities. As such, the officers presently on secondment with financially autonomous local authorities would not be in a position to exercise their option to revert to the service of Government or sever their service with Government to serve in local authorities. Furthermore we have recommended earlier that where local authorities are financially able to employ their own staff but are unable to recruit such officers, the Federal and State Governments should help out by seconding their officers to serve on a full-time basis with them. It should suffice for these authorities to pay their full salaries and allowances. Where local authorities are financially not in a position to employ such needed officers we have recommended that the salaries and allowances of these officers should be met by either the Federal or State Government as the case may be. We are of the view that the healthy development of local authorities and their ability to discharge their functions efficiently and effectively should be the aim of both the Federal and State Governments and this primary aim should not be lost sight of on purely financial grounds. Should, however, an officer opt at any time to the service of the local authority then the local authority concerned should be required to pay pension contributions on the basis of the rates proposed by Government.

947. We therefore recommend that:

(i) the Federal Government should bear full pension liability in respect of officers seconded to serve on full-time basis with local authorities;

(ii) local authorities should only be required to pay pension contributions in respect of government officers who opt to the service of local authorities.

TRAINING

948. It was suggested to us in several places that training facilities should be provided for staff of local authorities. The training of councillors was also advocated in some places. It was generally complained that staff of many local authorities lacked experience in local government work and in the effective performance of their duties. Various suggestions were made on the nature of training to be provided ranging from the establishment of a Local Government Institute to produce graduates with professional

degrees to in-service training for all categories of staff of local authorities. In respect of councillors it was pointed out that councillors were by and large ill equipped to tackle local government problems which were growing in magnitude and complexity.

949. We noted that there is at present no definite programme for the training of local government staff either at the Federal or the State level. Whatever training courses are now available are not tailored to the actual needs of local government. The Malaysian Home and Foreign Service officers are on appointment being put through a two-week induction course at the Staff Training Centre at Petaling Jaya but the contents of the course suggests little material of direct application to local government. A two-week course designed to help government officers to appreciate the principles and concept of local government is also held at the above centre on the average of once a year but here again the course lacks sufficient depth in local government administration. Lectures are given by instructors who have no specialised knowledge in nor been specially trained in local government administration. We also noted that some form of local government training is provided by some States to councillors and staff of Local Councils whilst in the rest of the States no form of training is provided. Even in the States where such courses are conducted they are not held regularly every year and the course content is usually on elementary principles of local government administration. Since last year the Valuation Division of the Treasury has also been providing a week's training for officers engaged in assessment work in local authorities. To-date five such courses have been held.

950. We are of the view that before a Local Government Institute can be set up for courses leading to the attainment of professional degrees, it would be imperative first of all to ascertain what type of officers would be required by local authorities and also the number of such officers over the next ten years or so. This would only be possible if a proper survey is conducted and the needs determined. Courses leading to the attainment of professional qualifications would require officers of local authorities to study on a full-time basis. In other words, the local authorities apart from meeting the necessary tuition fees of the officers concerned would also be required to pay the salaries of officers during the period of training. It is unlikely that most local authorities even after they have been re-structured as proposed would be in a financial position to meet the expenses involved in the training of their officers to obtain professional qualifications. It is also unlikely that they would be prepared to release their officers for studies for such protracted periods on council funds. We are therefore of the view that courses leading to a degree or diploma should best be conducted by such established institutions as the University of Malaya, the MARA Institute of Technology and the proposed Tunku Abdul Rahman College, etc. and local authorities need not be concerned in a direct way with matters of pre-entry training. In so far as local authorities require persons with professional qualifications, they should only employ those already holding such qualifications from recognised Universities and Institutions.

951. There is however a strong case for providing in-service training for key officials of local authorities having broad co-ordinating responsibilities, e.g. the Secretary and principal officers of the authority. In the United Kingdom, the Institute of Local Government of the University of Birmingham conducts a ten-week residential intensive course in Senior Staff Management. It is anticipated that in five years' time some three to four hundred officials of British local authorities would have had the benefit of this

training. Likewise in Australia there is a ten-week residential Management Course conducted by the Australian Staff College. It is important that in Malaysia too there should be opportunities for senior officials of local authorities to attend intensive courses in public management. The courses should be aimed at providing managerial training for all officers having functions of direction but on a lesser scale for professional and technical officers than for general administrators.

952. If these courses are to have the desired beneficial effects they should be conducted by experts in the field of local government and public administration. To this end it is considered that the Public Administration Department of the Faculty of Economics and Administration in the University of Malaya should be approached to organise and conduct these courses. A professional approach to the planning and execution of this training programme would not only encourage local authorities to send their officers but also greatly benefit the officers participating in these courses. Subjects for study at these courses should among others include local government laws, local government finance including the principles of accounting and budgeting, the management services and personnel management. As officers in this category cannot be spared for long durations by the local authorities concerned it is considered that the period of the courses should be limited to ten weeks.

953. With regard to junior grade and clerical staff of local authorities we are of the view that they should on appointment be sent for a brief induction course designed to orient them to their new duties and to acquaint them with their responsibilities in dealing with the public. The content of such training should also include the concepts and objectives of local government, the structure and functions of local authorities, the laws under which they operate, its relationship with the Federal and State Governments and elementary principles of public administration and finance. The period of such courses should be limited to one week and should be organised at State levels. It should be made the duty of the State Commissioner of Local Government to organise these courses.

954. Apart from the induction courses as proposed above, the task of training junior grade officers and clerical staff should be left to the principal officers of the local authorities. It should be the duty of the principal officers to provide on-the-job training to the staff directly under their control. They should closely supervise the work of the staff and by oral instructions accompanied by demonstrations from time to time improve their competence and efficiency. The principal officers should also by example and precept be able to pass on their skills and knowledge to the rank and file. The Secretary to the local authority should ensure that staff are being provided adequate on-the-job training by their respective principal officers.

955. We recognise that the success of local government units depends as much upon the quality of the work of councillors as that of the staff of the authorities. Nor are we unmindful of the need of acquainting councillors with the complex problems of local authorities and their finances. But we do not consider it a practical proposition or think it necessary to provide councillors of local authorities with any form of formal intensive training courses for the purpose. Instead, councillors should be encouraged to exchange experiences and ideas at seminars and conferences organised by the proposed Association of Councillors of Local Authorities at the National and State levels. These seminars and conferences should be of short duration. Topics such

as relations between the Council and principal officers, skills necessary to function effectively as councillors, etc. could be usefully discussed in addition to those already suggested in paragraph 645. Knowledgeable and expert personalities could be requested to present papers and lead discussions on these subjects. In addition, the Association could, as a clearing house, also make available to councillors matters of topical interest on local government functions elsewhere in the world. We believe that such steps should suffice to acquaint councillors of their role and functions in local government.

956. **We therefore recommend as follows:**

(i) a ten-week intensive course in Senior Staff Management should be conducted for Secretaries and principal officers of local authorities;

(ii) the Senior Staff Management Course should be conducted in co-operation with the Public Administration Department of the Faculty of Economics and Administration in the University of Malaya;

(iii) all junior grade officers and clerical staff of local authorities should on appointment be given a week's induction course organised at State levels;

(iv) the State Commissioner of Local Government should be responsible for arranging at the State level the courses for junior grade officers and clerical staff of local authorities;

(v) it should be the duty of the principal officers to provide on-the-job training to staff directly under their control and the Secretary to the local authority should ensure that adequate on-the-job training is being provided by the principal officers;

(vi) the Association of Councillors of Local Authorities should organise seminars and conferences of short duration and make such arrangements as would enable councillors to acquaint themselves with problems of local authorities and their finances and thereby enhance their usefulness and effectiveness.

CHAPTER XI

SERVICES

957. The division of functional responsibilities is the *sine qua non* of local government. Theoretically it is possible for a country not to have a local government. A Central Government may directly discharge all the functions, but this will not give rise to a creative and an open society. It will only produce an expectant and closed society. Such a society will be void of initiatives. Initiatives are intangible qualities, the loss of which cannot be easily quantified. Be that as it may, it cannot be denied that the world has been gravitating towards centralisation in the art of government. Accentuation of this phenomenon has been accelerated chiefly by the overwhelming explosion in science and technology in this century. What was considered to be a suitable local decentralised responsibility in the past century is now considered to be suitable only for centralised management. Centralised efficiency has been increasingly gaining priority over decentralised management.

958. There are other reasons for centralisation besides advancement in science and technology. They are: (*a*) the need to rationalise the allocation of scarce resources on a balanced basis; (*b*) the need for administrative and financial capabilities for huge technical undertakings; (*c*) the reluctance of national political parties to allow opposition parties to take control of local areas; (*d*) aversion to ethno-centric groups asserting themselves at local levels against national interests and unity; (*e*) the weaknesses of local government itself with its rudimentary and fragile finance and generally the poor quality of its local councillors; (*f*) the fact that in some countries local government does not cover all the areas of a country; (*g*) paternal and condescending attitudes of national governments towards the people in local and more particularly in rural areas who lack sophistication, literacy and cultural, and racial homogeneity of the people; and finally (*h*) the urge to keep the country together by a strong national government. These are many of the reasons that have prompted centralisation in several countries which may not be wholly monolithic in their political philosophies.

959. Even so a universal pattern is discernible in regard to division of functions. In nearly all countries, the centre always reserves to itself certain functions of national importance and consequence. Foreign affairs, defence, issue of currency, tariff and fiscal policy are some of the universal instances. There are also many countries where the central governments are responsible for transport and communications, education, internal security including police, health and the like. These are not exhaustive and there is no hard and fast rule as to what functions a central government should be directly responsible for and what functions should be properly left in the hands of regional or local governments. Internal conditions and administrative tradition may very well determine this division of functions.

960. In a federal state such as ours, it is common for allocation of functions to be spelt out in the Constitution itself. Our Constitution has a Federal List, a State List and a Concurrent List of functions between the Federal and the State Governments. No

express or residual reservation of functions has been made in the Constitution for local government. Only specific legislation enumerate the functions of particular local authorities. These functions may coincide either with the State List or the Federal List of functions and they are limited only to the extent allowed.

961. The Federal or the State Governments may deconcentrate or decentralise their functions. In deconcentrated functions, a field agent such as the District Officer in a district or the Chief Education Officer in a State discharges his service as a functionary of his principal. A civil servant of the Federal service for instance acts in the name of his Minister without any formal delegation of powers by the Minister to him. He is expected to know the mind of his Minister by the policies evolved by him and must not do any act that the Minister will find difficult to defend either in or out of Parliament.

962. In a deconcentrated service there is little or no public participation. The field agent of the Federal Government is not answerable to the regional or local representative body even though he may serve at the State or local authority level.

963. In a decentralised service, power is delegated to a local body. The Federal Minister or the Mentri Besar of a State is not directly answerable for the act of a local representative body with a decentralised responsibility. Such a body stimulates local public opinion on a particular service, gathers local support and tries to fulfil a local mandate. These functions in themselves serve as a process in public education. Co-operation and participation received from an enlightened public at the grass-root level is undoubtedly the true foundation for a vibrant democracy. In the absence of such participation a big attitudinal gap is likely to emerge between national and local leaderships. In such a case there will be little liaison or dialogue between the two, and their semantics decades apart.

964. We do not say that all deconcentrated services should be decentralised. Local government services have a traditional pattern. There is a broad general pattern of local government services the world over; their differences vary from country to country and within a country itself. To draw a definite list of services as being suitable for international adoption would be dogmatic and unrealistic. In one country a service may be suitably decentralised whilst in another it may be deconcentrated depending on ecological and other factors. Nevertheless there are certain services which have to be locally individualised, which are suitable for local participation, which should be improved or innovated from time to time by assessing local needs, which can stimulate local public interest and which can be conveniently administered locally. Such services wherever necessary should be decentralised, at least in part, even though they may be the exclusive responsibility of the Federal or State Government.

965. Here is where a complete re-thinking is necessary both by the Federal and State Governments on the actual and potential roles of local government. This is vital in view of the fact that we have recommended district local authorities to serve enlarged areas and increased population. Hitherto there might have been justification in the present treatment of most local authorities. They were very fragmented and they did not cover the entire country. The proposed system has been conceived so as to enable local authorities to provide traditional local government services and also participate with the Federal and the State Governments in the task of social and economic development.

Local government is not merely an organisational elegance. It should be made meaningful, functional and effective in the achievement of national progress. It must be recognised as a vital link in the chain of creative federalism.

966. We are therefore of the view that the Federal Government in implementing its policies and programmes should devise a method of dividing its functions between itself, its field agencies and with the local government where suitable and necessary. The division of responsibilities should be accompanied with a programme of implementation with departmental priorities and time-table. Any allocation of functions to local authorities and programmes of implementation may vary from district to district and need not be the same throughout the country. Where a local authority is already well equipped to play its role, it should be drawn in to share responsibilities which will no doubt depend on the ecological conditions of the district and the administrative and financial capability of the authority itself.

967. In accelerating the social and economic development on a national basis the Federal Government quite rightly plays the key role in the public sector. Developments covered by the public sector are usually beyond the capability of an individual or a firm or a local community to undertake. Many of the developments have to be preceded by infrastructural services such as roads, bridges, communications and the like. The Federal Government normally provides these supporting services to make possible a breakthrough in industrial and social development.

968. Should local government have a part in these supporting services? It is true that many of these services are implemented at the district level. Such services will no doubt immediately and directly benefit the people in the districts. Should they have participatory roles in these through their local authorities? Any economic and social development is an awakening process. It should therefore be fully exploited to kindle the enthusiasm and initiatives of the local people. It should generate the social urge for realisation of local potentialities, both spiritual and material. In every work of public development however small or big, it is of utmost importance that local people should be given at least a sense of psychological participation. Then only will a nation be imbued with a sense of purpose and direction.

969. Sectoral and physical services of infrastructural importance should not be the exclusive domain of impersonal technocrats from distant places. Sentiments connected with these projects should be personalised at local levels with the participation of local people. In the understandable desire to get things done hurriedly the psychological embracement of the local people with public projects in their local areas should not be forgotten or overlooked or brushed aside.

970. If visiting technocrats implement a local project in the National Plan and hand it on completion to the local people it will not create in them a feeling of local pride and achievement. In such a case the local people will be no more than passive spectators and grateful recipients. This will be a psychological loss, the vital importance of which cannot be easily measured or overstated.

971. How should a local authority participate in such development projects? Professor Henry Maddick in his excellent book entitled "Democracy, Decentralisation

and Development" [1] has succinctly summarised the responsibilities of a central government and the participatory roles of local authorities as follows:

(i) fixing broad priorities between—
  (*a*) different sections of policy,
  (*b*) different parts of the country.

(ii) allocating scarce resources in accordance with these priorities;

(iii) planning the speed and the method of implementation (either by itself or through field agencies and local authorities);

(iv) planning the speed and method of industrial development;

(v) where necessary, providing supporting services or enabling field agencies and local authorities to do this;

(vi) where necessary, providing finance for the execution of the plan (either directly or through granting of revenue-raising powers to local authorities).

972. Though Professor Henry Maddick does not appear to have taken into account allocation of responsibilities in a federal state such as ours, where there is the presence of a state government, we nevertheless are of the view that his suggestions are equally applicable even in a federal state. What he has suggested is the sharing of central or national responsibilities with the local authorities wherever necessary. In sharing responsibilities a federal government will no doubt have to use its discretion in seeking the participatory role of a state or local government. This depends on the magnitude of the service or project, its effect and importance in terms of area and the like. Where a service is essentially of a local character local participation should be sought through the local authority of the district.

973. There is no reason why a suitable local authority should not be used to provide a number of Federal or State services of regular nature, quite apart from particular developmental projects. The Ministries of Housing, Social Welfare, Agriculture and Co-operatives, Health, Education and Youth, Sports and Culture are service-oriented in a personal and individual sense. These Ministries should serve as centres of creative imagination and inspiration, providing leadership and driving forces for services to be rendered at local levels throughout the country.

974. The above Ministries can vitalise local government in a number of ways. They can operate as "power houses" that energise and activate local government to provide their services of local character and significance. They can conduct researches pertaining to their services and distil their conclusions to local authorities for their information and education. They can train specialised officers to be seconded to local authorities and to provide their services at local level. They can from time to time supervise and guide local authorities to which such services are delegated, and maintain liaison and co-ordination with the Ministry of Local Government.

975. Another Ministry that should have close connection with local government is the Ministry responsible for Public Works. Its engineers are at present serving at district levels. They should hereafter be seconded to the local authorities that do not have their

[1] Henry Maddick: "Democracy, Decentralisation and Development" 1963, Asia Publishing House, London, p. 33.

own engineers. Even if a local authority is able to have its own engineer, the district engineer of the Federal Government as a field agent in the district should work in close liaison with the local authority. The same principle should be extended to Health Officers and other federal officers.

976. As far as possible, Federal Ministries should avoid over-centralisation to promote despatch, to foster diffusion of decision-making responsibilities at subordinate levels, to reduce the crushing workload of senior officials having to consider trivialities and minutiae, and to encourage delegated decentralisation through local government. Throughout the world, top level administrative ability is a very scarce commodity and is more so in developing countries such as ours which is in the throes of economic and social take-off. To get the best out of the top administrative layer, it should not be over-burdened so that it can use its manpower in creative thinking, providing leadership, evolving national policies, generating a driving force and achieving optimum efficiency. The importance of this has been recognised in developed countries such as the United States, United Kingdom, Scandinavian countries and even the U.S.S.R. In all these countries diffusion of responsibilities has been encouraged both through delegated deconcentration and decentralisation with a view to minimising or avoiding apex-decision-making on minor matters and its resultant bottle-necks.

977. Though we advocate decentralisation of some of the federal services as a matter of principle the rendering of such services must have proper *raison d'etre*. These services envisaged should be apart from the traditional type that a local authority normally renders. Other services such as welfare, adult education classes, health clinics, housing and the like should wherever possible and wherever necessary be decentralised. The twin criteria of feasibility and need should be the precondition before a federal service is decentralised. The feasibility test should be assessed against the administrative efficiency of the local authority. If a local authority lacks the required administrative machinery the Federal Ministry should consider whether it can provide the machinery by appointing its field officer on secondment to the district. This should be done only if there is a real need or demand for the service.

978. We are therefore of the view that rural development service engendered by the Ministry of National and Rural Development should be implemented wherever necessary and feasible in liaison with the local authority. Though at present a committee is normally appointed at the district level for rural development, it is necessary to identify the local authority with this important process by giving it a sense of participation on the ground that a district local authority we have recommended will be responsible for the entire welfare of the district including rural areas which will be its territorial and perhaps demographic mainstay. This may be done by the appointment of a suitable number of local authority councillors to the Rural Development Committees. Through this Committee, the local authority will be able to ventilate its views and make recommendations to the Federal Ministry. The Secretary of the local authority should be appointed as the Chairman of this Committee.

979. So far, we have considered the question of delegating some of the Federal services to local government. Likewise, the State Governments too can and should delegate some of its services to the local government, wherever considered feasible and desirable.

980. What about the range of services that a district local authority can conveniently render now or in the future? We enumerate below the type of services that can be delegated, either wholly or in part, to a district local authority and which are traditionally rendered by them in other countries:

Agriculture—
- Minor rural irrigation
- Minor rural drainage
- Urban drainage
- Veterinary services
- Cattle control and breedings
- Dairy farms
- Supply of fertilisers and manures to farmers
- Supply of seeds and seedlings
- Pest control
- Credit for farmers
- Bunding
- Model farms.

Amenities—
- Town and Country planning
- Housing—Urban
- Housing—Rural.

Communications—
- District Roads
- District Bridges
- Culverts
- Urban traffic control
- Transport service.

Economic Development—
- Rural Development
- Urban Development.

Health—Individual—
- Clinics
- Mobile Clinics for rural areas
- Vaccination and Inoculation programmes
- Midwifery
- Ambulance for rural areas
- School health services.

Health—Public—
- Insect control in urban and rural areas
- Control of infectious diseases in urban and rural areas
- Sanitation and Conservancy
- Refuse collection and disposal
- Standpipes in urban and rural areas

- Wells and Pumps in rural areas
- Food inspection in urban and rural areas
- Abattoirs.

Protection—
- Fire services
- Illegal constructions
- Nuisances
- Control of trades
- Weights and Measures.

Public Works—
- Streets
- Pavements
- Lighting
- Building and construction services.

Social Services—
- Adult Education
- Women's education
- Libraries and museums
- Welfare of children
- Welfare of old people
- Welfare of disabled persons
- Sports stadiums and playing fields
- Swimming Pools
- Community Centres
- Theatres and Halls
- Local fairs and fiestas
- Parks and gardens
- Patronage of the arts, plays and dramas
- Local authority bands
- Youth services:
  - (*a*) physical training;
  - (*b*) gymnasium;
  - (*c*) clubs;
  - (*d*) sports;
  - (*e*) games;
  - (*f*) self-defence.

Tourism—
- Maintenance and beautification of scenic spots
- Water-falls
- Hotels
- Restaurants
- Cultural and religious activities
- Seaside
- Amusement centres.

Statistics—

Births, marriages and deaths

Population, age, sex, income and all other useful statistics

Employment

Unemployment

Under-employment

Number and types of dwellings

Number of shops

Number of estates, small holdings

Number of mines.

Miscellaneous—

Crime control by:

(*a*) citizen committee;

(*b*) village squads.

Civil Defence.

In-migration—

Systematic phasing of movements of rural people into urban areas

Accommodation for them

Employment information and prospects for them

981. The above list of services contains some of the traditional services now rendered to a greater or lesser degree by the existing local authorities. It also contains many new functions which are currently the exclusive responsibility of either the Federal or the State Government. The list is merely illustrative and not exhaustive. It attempts to provide an amalgamation of services that can be conveniently and effectively brought under the administrative canopy of local government.

982. In such rationalisation the only motive should be how can a local citizen be served through a process in which the citizen will identify himself both as a giver and a recipient. By delegating such functions to local authorities the State or the Federal Government should not think that it is surrendering its power but rather sharing it to vitalise an inter-governmental partnership.

983. We are aware that a local authority should not be required to bear a functional load more than it can possibly bear at a given time. It is important that a local authority should have an aura of competitive existence. Value of a power cheaply and gratuitously granted may not be clearly appreciated. It should come as a consequence of good work and efficiency and not because a local authority should be embellished with all the conceivable powers on the slate. Power unused for social good is power wasted; power wasted can be a cause for diffidence, not confidence.

984. It is necessary that the Local Government Act should contain all powers envisaged for the local government. But in granting them to a local authority, the State Authority should have a regard to a reasonable and ascertained criteria.

985. At present there are 70 districts throughout the country. Of these, the district of Penang North-East has an estimated population of 333,570 for 1967. This is the most populated district in the country excluding the district of Kuala Lumpur which includes the Federal Capital. The smallest district in the country is that of Marang in the State of Trengganu with an estimated population of 17,244 for 1967. The district of Penang North-East includes the City of George Town and is a very developed and urbanised area with a tradition of local government exceeding 100 years and with a population by and large sophisticated. Marang, on the other hand, is a very rural area with a small rural population. Between the two, the gulf is too wide. Simply because they are administrative districts, the granting of equal powers to both the districts would be irrational. In the district in Penang the functional responsibilities should be both urban and rural in character whereas in Marang, assuming it is granted a separate local authority, the accent on the powers should be essentially rural. This is the rationalisation that the State Authority should keep in mind in allocating functions laid down in the Act.

986. Each local authority's ecological conditions and its degree of urbanisation should be carefully analysed before allocating the extent of functions. Then, the local authority should be gradually nourished and encouraged to shoulder increased responsibilities on the basis of experience gained.

987. Even the existing Municipalities should not be given all the responsibilities at once. No doubt the Municipalities have more resources and greater experience in the art of local government. But hitherto they have been almost entirely urban in character. Under the system recommended they will have to orientate themselves to share their benefits and burdens with the surrounding rural areas. Their future problems will be both rural and urban. They will have to strike a balance between the two. Allocation of responsibilities should be so done as to achieve this balance.

988. Professor Henry Maddick suggests three stages of growth in allocating functional responsibilities. He says:

> "For the attainment of the objectives of a local government system, obviously the aim is to enable the local authorities to do as much as possible, as efficiently as possible, and everything that reasonably can be devolved upon local authorities.
>
> . . . . . .
>
> "Some functions—refuse disposal, sanitary services, standpipes, wells and pumps, bunds, fiestas for example—are clearly local and are better vested in local authorities under most conditions. (This is the first stage).*
>
> "Other functions depend upon the existence of sufficient technical ability to ensure their minimum efficiency—clinics, schools and model farms are examples of these. (This is the second stage).*
>
> "Then there are those services where the degree of technical ability required is high and likely to be found at local authority level only when the country is well advanced—thus hospitals, public health supervision, afforestation, or other construction of other than local roads. (This is the third stage)."* [1]

* Words appearing in brackets are those of the Commission.

[1] Henry Maddick: "Democracy, Decentralisation and Development" 1963, Asia Publishing House, London, p. 110.

989. Put differently the stages of growth of local authorities may be stated to be basic, medium, or advanced. Each of the proposed local authorities should be classified under any of these stages in accordance with its financial resources and administrative efficiency for the purpose of allocating functions as provided in the following paragraph.

990. The functional responsibilities of the proposed local authorities should be categorised into (*a*) obligatory and (*b*) discretionary services. Obligatory services should be the accepted minimal range of services that a local authority should provide regardless of its financial resources or administrative efficiency. Obligatory services are a social necessity. Whether or not a proposed local authority has its own means to provide the obligatory services, it should be enabled to provide them with general grants from the State Authorities. Discretionary functions on the other hand may or may not be provided. These should be over and above the obligatory services and whether or not a local authority should provide a discretionary service should depend on its financial resources and administrative efficiency. In deciding whether or not a local authority should be permitted to provide a discretionary service, the State Authority should classify a local authority under the basic or medium or advanced stage of growth as the case may be and allow a group of discretionary services compatible to the stage of growth the local authority concerned has attained. It is necessary that there should be a systematic allocation of services so that both the State Authority and local authority will have a foreknowledge of the yardstick they will have to apply. No State Authority should unreasonably dampen the enthusiasm of a local authority in providing discretionary services. On the other hand no local authority should try to bite more than it can chew by indulging in fancy discretionary services at the expense of the quality of the obligatory services or which may result in a financial loss to the detriment of the ratepayer.

991. The following services illustrate the obligatory and discretionary functions:

Obligatory Functions—

Health—Public:

Regulating or abating offensive or dangerous trades, callings or practices.

Abating of all public nuisances.

Removing of noxious vegetation.

Prevention of pollution of water and air, standpipes, wells and pumps.

Rodent control.

Insect control.

Regulating crematoria, cremation grounds and burial grounds

Disposal of carcasses of animals.

Disposal of stray dogs.

Cleaning public streets and places which are open to public enjoyment.

Collection and disposal of public refuse and garbage.

Construction and maintenance of public toilets.

Construction, maintenance and cleaning of public drains, sewers and drainage works.

Sanitation and conservancy generally.

Food inspection and prevention of food adulteration.

Assist in the prevention and control of contagious, infectious and dangerous diseases.

Abattoirs.

Cattle control.

Public Works:

Construction, maintenance, alteration and improvement of public streets, bridle paths, bridges, pavements, culverts and the like.

Control and regulation of building works. Street lighting and public places.

Planting and maintaining of trees on roadsides and other public places.

Removal of dangerous buildings.

Social Services:

Libraries and reading rooms.

Mobile library for rural areas.

Community centres.

Parks and Gardens.

Patronage of the arts, plays and dramas.

Youth services:

(*a*) physical training;

(*b*) gymnasium;

(*c*) clubs;

(*d*) sports;

(*e*) games;

(*f*) self-defence.

Tourism:

Maintenance and beautification of scenic spots, e.g., seaside, waterfalls, places of historical interest.

Promotion of cultural activities and holding of annual festivals.

General:

Naming and numbering streets, public places and premises.

Erecting the local authority's boundary marks.

Urban traffic control.

Up-to-date statistics of all kinds required by the Federal and State Governments and in particular those referred to in paragraph 980 above.

Removing obstructions, encroachments, projections and other public nuisances from the public streets, places and parks.

Protecting properties and persons from fire hazards and providing fire extinguishing service.

Fulfilling obligations imposed by the proposed Local Government Act and enforcement of rules, by-laws, etc.

Discretionary Functions—

Public Health:

Establishing and maintaining farms or factories for the disposal of sewage.

Midwifery.

Sewage works.

Health—Individual:

Clinics.

Vaccination and inoculation.

Mobile clinics for rural areas.

Ambulance for rural areas.

School health services.

Child welfare.

Family Planning Services.

Housing:

Urban low-cost housing.

Rural low-cost housing.

Housing for local authority's employees.

Urban renewal.

Urban rehabilitation.

Temporary housing to control an orderly in-migration of rural people into urban areas.

Education and Social Welfare:

Kindergarten Schools.

Trade Schools.

Evening Schools for various polytechnic courses.

Schools for agricultural courses.

Community services.

Welfare of old persons.

Welfare of disabled and unemployable persons.

Provision of milk for school children.

Institutions for physical culture and training.

Swimming pools.

Museums.

Stadiums.

Entertainment centres.

Local authority Band.

Promotion of cultural institutions.

Measures to control beggars and vagrants and providing for their relief.

Adult education.

Development:

Rural development either alone or in conjunction with the State or the Federal Government.

Urban development either alone or in conjunction with the State or the Federal Government.

Agriculture:

Veterinary services.

Supply of fertilisers and manures to farms.

Supply of seeds and seedlings.

Pest control.

Credit for farmers.

Bunding.

Model farms.

Dairy farms.

Minor rural irrigation.

Minor rural drainage.

Constructing and maintaining graneries, godowns, cold storages, ware-houses for preservation of food, grain, foodstuffs, and vegetables in transit.

Establishing and maintaining nurseries for trees, plants and vegetables.

Public Utilities and Remunerative Trades:

Transport services in the district.

Establishment and maintenance of printing press and workshop for municipal and private work.

Undertaking suitable commercial and industrial activities.

Improvement of seaside and other resorts and commercialisation of their prospects.

Construction and maintenance of Rest Houses.

General:

Conducting census and surveys for the Federal and State Governments.

To provide such services as the Federal and State Governments may require.

Regulation of weights and measures.

Encouraging hotels of standard to be erected.

Ensuring restaurants of acceptable standards to be established.

Maintenance of district roads.

District bridges.

Preparation of annual and other reports.

Maintenance and development of Municipal property.

992. The above enumeration of obligatory and discretionary functions is not exhaustive. We do realise that the division of services as obligatory and discretionary may not always be perfectly workable. Yet for an orderly allocation of functions we are of the view that such a classification is desirable. From time to time the State Authority may by itself or on the initiative of the Federal Government enlarge the scope of these functions.

993. As soon as the proposed local authorities come into being they should be required to carry out the obligatory functions whether or not they have adequate financial resources. The difference between the funds available to the local authorities from their revenue resources and the cost of discharging these functions should be met by general grants from the State Governments.

994. In order to project a meaningful image of local government, it is necessary that a local authority should be able to provide a minimum range of services. Only then would the citizens be able to appreciate the usefulness and the necessity of local government.

995. In illustrating the range of obligatory services we have kept in the forefront of our minds the necessity to balance the services between the needs of urban and rural areas. Hitherto local government services were in the main urban-oriented and as such rural or agricultural aspects of the services were not given any recognition. Now that we are recommending a district local authority with an urban and predominantly rural base, it is of great importance that some of the services should be rural and agricultural oriented, otherwise people in the rural areas would find no benefit by having a local authority for the entire district. By providing such services, local government too can play its part in contributing to the national policy of closing the economic and social imbalance between the rural and urban people.

996. We therefore consider that if a local authority does not have the financial wherewithal to provide the obligatory services, the State Authority should give annual general grants having regard to the local authority's own resources and the extent of its need for grants. In the case of a discretionary service the local authority should in the first instance make out a case for such service and should be in a position to meet the substantial cost of such service. If the State Government is satisfied with the need for such service and the financial and administrative capability of the local authority concerned to provide such service, the State Government should give its approval to it. It should be the policy of every State Authority to encourage every local authority to increase the scope of its services from time to time. If a local authority remains static in its range of services, it should be the duty of the State Authority to examine the reasons for its static situation and take steps to introduce remedial measures to vitalise the local authority. The above principle should also apply in respect of a service that a local authority may wish to perform under general competence. In addition to

the obligatory and discretionary services the State or the Federal Government may if it so desires require a local authority to provide certain services on its behalf, in which case the State or the Federal Government should defray the full costs of such services.

997. As recommended earlier the State and the Federal Government should fully make use of the local government so that a tradition of creative and co-operative federalism could be built in the country and that every citizen would be able to look towards his local government as a necessity for better living.

998. We therefore recommend that:

(i) the Local Government Act should enumerate obligatory and discretionary services of every local authority;

(ii) every local authority should be required to perform the obligatory services;

(iii) where a local authority does not have the financial resources to provide the obligatory services, the State Authority concerned should give annual general grants to bridge the gap between the revenue raised by the local authority and the cost of providing the services;

(iv) a discretionary service should only be permitted by the State Authority on being satisfied that the local authority concerned has the financial resources to meet the substantial cost of such a service;

(v) no local authority should be required by the State Authority to provide a discretionary service when it is financially unable to do so, but it may perform such service if the State Authority fully defrays the cost incurred thereby;

(vi) where the Federal or the State Government requires a local authority to provide a federal or state service, the costs incurred in this respect by the local authority should be completely reimbursed by the government concerned.

CHAPTER XII

FINANCE

SOURCES OF FINANCE

999. As explained earlier in Chapter I, it was by and large due to the unhappy financial position obtaining in most local authorities that the appointment of this Commission of Enquiry was considered necessary. Our own observations and the evidence we heard throughout the enquiry brought home with greater clarity the facts in this regard. However, before stating the evidence we heard and the recommendations we propose, it would not be out of place to state at this juncture the sources of revenue and the major items of expenditure which are common to all local authorities.

1000. *Assessment Rates.* The chief source of revenue in any local authority in West Malaysia be it a Municipality, Town Council, Town Board, Rural District Council, District Council or Local Council, accrues from the general assessment rate. This general assessment rate is a percentage "rate" that is imposed on the 'annual' or 'improved' value of immovable properties within the local authority area. With the exception of those local authorities in the State of Johore the rest of the local authorities in West Malaysia use the annual value of properties as the basis for purposes of rating. The 'annual value' as defined in the Municipal Ordinance and the various Town Boards Enactments is "the estimated gross annual rent at which the holding might reasonably be expected to let from year to year". In the case of Johore the 'improved value' of properties is used as the basis for rating. The 'improved value' as defined in the Johore Town Boards Enactment (No. 118) means the capital sum which the property might "be expected to realize if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require".

1001. There is a statutory limit imposed on the rate that may be levied by local authorities in respect of immovable properties within the local authority areas. The maximum that can be levied in this respect as specified in the Municipal Ordinance and the various Town Boards Enactments (with the exception of Johore) is fixed at 35 per centum of the annual value of the property rated in any one year. In Johore the statutory limit is 5 per centum of the 'improved value' of the property. Local Councils which operate under the Local Councils Ordinance may only levy rates up to the maximum that a Ruler-in-Council of a State may prescribe by an Order notified in the *Gazette*.

1002. *Licence Fees.* Licence fees in respect of dangerous, noxious or offensive trades, places of entertainment, eating houses, coffee shops and the like and the licensing of non-motor vehicles form the second biggest source of revenue in any local authority.

1003. *Contribution-in-aid of Rates.* In addition local authorities by virtue of Article 156 of the Malaysian Constitution are in receipt of contributions-in-aid of rates from both the Federal and the State Governments in respect of properties which are situated within the local authority area belonging to these two Governments. Contribution-in-aid of rates are also paid to the local authorities by such public authorities as the Railways,

the National Electricity Board and the Port Authorities. The contribution-in-aid of rates is arrived at by negotiation between the local authority on the one hand and the State and Federal Governments and the public authorities on the other. In the event of disagreement on the quantum of contribution-in-aid of rates payable to the local authorities the dispute can be referred to a Tribunal established under the Malaysian Constitution consisting of the Chairman of the National Land Council and two members, one nominated by each party to the dispute.

1004. *Service Charges.* Services such as the removal of garbage and night-soil are termed "non-remunerative" services, and the amounts raised from them do not in practice form a source of revenue as most of this revenue is expended in providing these services.

1005. Some local authorities are also in receipt of a small commission from either the State or the Public Authority where they act as agents in the collection of revenue, e.g. water rates, electricity bills, etc. The revenue accruing in this regard does not, however, amount to very much.

1006. *Grants.* To the non-financially autonomous local authorities, namely, the Town Councils, Town Boards and the three Rural District Councils in Malacca, the State Government makes out balancing grants at the beginning of each year to offset any estimated deficit for the year. The basis, manner and mode of payment of balancing grants vary from State to State.

1007. Local Councils are also given grants by some States, but here again, with the exception of a few States, there is no definite yardstick by which these grants are made by the respective State Governments. In some States, grants are made on a percentage basis of the actual revenue collected by way of rates in the previous year, whilst in others it is based on either one or a combination of some of the following considerations, namely, the amount required to offset any estimated deficit in the expenditure for the year, the population, the properties appearing in the valuation list or a certain percentage of the actual revenue collected in the preceding year.

1008. All four Municipalities (including the Municipality of the Federal Capital) are also in receipt of a road maintenance grant from which they maintain the roads within the Municipal areas.

1009. *Investment Return.* The Municipalities and some of the financially autonomous Town Councils have an added source of revenue by way of returns from investments made of their reserve funds.

1010. *Public Utilities.* The Malacca Municipality which is the water authority for the Municipal area and outside also collects water rates which form part of its revenue. In the case of George Town City Council, revenue accrues to the Council by its being the controlling and responsible authority for the water supply and electricity. Revenue also accrues from their transport services within the City Council area.

AVENUES OF EXPENDITURE

1011. In the main, with the exception of the Municipalities for reasons that will be explained later, the largest expenditure of any local authority in West Malaysia is in respect of overhead expenditure. This is made up of the salaries and wages that must

be paid to officers and labourers of the authority and the maintenance of machineries and vehicles used by the authority in discharging its functions. Officers, both administrative and technical, have to be employed in sufficient numbers, not only to undertake the administrative functions of the authority but also the enforcement of the laws and by-laws of the authority, e.g. town planning, buildings, etc., and the control and licensing of eating houses, hawker stalls and markets so as to ensure that the health of the residents is not jeopardised. Labourers have to be employed in such numbers as are necessary for the general cleansing, repair of roads and drains and the maintenance of open spaces, parks, public and children's playgrounds, etc. Labourers in sufficient numbers also have to be engaged to undertake garbage and waste collection and the disposal thereof and the removal and disposal of nightsoil within the authority area. Street lighting constitutes another major expenditure of the local authorities. Financially autonomous local authorities (with the exception of Town Boards) also have to meet the allowances of councillors from their revenue.

1012. The nature and degree of development projects that can be undertaken by a local authority are largely dictated by what revenue is left after meeting the overhead expenditure of the authority. In the absence of specific grants from either the Federal or State Government for development purposes, this is also dictated by the loans that the authority can borrow from either the State or the Federal Government. The Municipal Ordinance provides for Municipalities to borrow money up to five times the annual value of all rateable properties within the Municipality in respect of remunerative projects and two times the annual value in respect of non-remunerative projects. No corresponding provisions are made in the other legislation relating to local authorities. Financially autonomous Town Councils, Town Boards and Local Councils can however do so if the Federal Treasury, with the approval of the Ruler-in-Council of the State concerned, agrees to such local authorities being included in the Schedule to the Public Authorities (Control of Borrowing Powers) Act, 1961. Consequently, larger authorities with greater financial resources can undertake major development projects not only from the excess of revenue after meeting expenditures on overheads but also from loans, whilst others can do so only to the extent that their own financial resources permit them without the scope to borrow.

1013. The Municipalities by virtue of the highly developed nature of the local authority areas are able to raise substantial revenue by way of rates. Not only are their areas densely built up but they also have a number of valuable properties, e.g. hotels, eating houses, business premises, factories and Government buildings, the annual values of which are relatively high and consequently bring in considerable revenue by way of rates. Fees from licensing of hawkers, eating houses, etc., are also on the higher side. Because of their financial strength, they are not only in a position to expend considerable sums of money on major capital projects but are also able to obtain loans from the Federal Government to finance their major capital projects with every confidence of being able to repay the loans as and when due.

1014. With very minor exceptions, financially autonomous Town Councils and Town Boards could not afford to embark on even minor development projects purely from the revenues raised. Their revenue could at best be only utilised to pay the wages and salaries of the staff of these authorities in the discharge of their functions and responsibilities.

1015. In the case of non-financially autonomous Town Councils, District Councils and Town Boards, the balancing grant given by the respective State Governments at the beginning of the year to offset deficit for the year merely enabled them to expend money on annually recurrent items, e.g. wages and salaries of officers and labourers of the authorities and in meeting other payments, e.g. lighting, maintenance of vehicles, etc. Hardly any money was left for them to undertake capital projects and their sole source in this regard was grants for specific projects made by the Federal or State Governments.

1016. Local Councils too, with very minor exceptions, by the nature of their size were in no position to undertake any form of development projects from the revenue collected. To most of them, rates on properties formed the chief and only source of revenue. Much of this revenue accrued from dwelling houses. Unlike the other categories of local authorities which are generally urban in character, there was in most Local Councils a dearth of shopping houses, hotels or State or Federal Government buildings which would otherwise have brought them considerable amount of revenue by way of rates. Fees from licensing of eating houses, hawkers, etc., were negligible. The revenue collected, without the State Government's balancing grant, would by itself not be sufficient to even pay the wages and salaries of the staff employed by these councils for any one year. Local Councils, therefore, depended very heavily on grants from the State Governments for making ends meet. In so far as development projects were concerned they had to rely solely on grants for specific projects either from the Federal or State Governments.

1017. In Chapter VI, we have already pointed out that local authorities, with the exception of the Municipalities, have been established without any regard to definite rational criteria. The area of the local authority, the population it is expected to serve, the revenue that could be raised by local authorities, were all matters that appear not to have been taken into consideration in the setting up of the various categories of local authorities. It is to enable local authorities to play a more meaningful and dynamic role than they have hitherto, that we have recommended the re-structuring of local authorities into Municipalities and District Councils. Our recommendations envisage a system of local authorities that in our view would make for more stable and financially viable local authorities. Nonetheless we recognise that not all local authorities would have the financial viability desired for some time to come. Nor do we think that the proposed system would be the panacea to all the financial ills of the local authorities. Indeed we are of the view that if definite corrective measures are not taken on several matters many of the financial problems and difficulties so far experienced would worsen. For this reason, the various points that are dealt with under their relevant headings in the paragraphs that follow hereafter need to be acted upon simultaneously with the introduction of the new structure of local authorities proposed herein.

FINANCIAL AUTONOMY

1018. We have already recommended earlier that the future local authorities should be financially autonomous. The term 'autonomous' implies that when a local authority is given such a status, it is empowered to retain its revenue and subject to its budget being approved by the State Government as required by law, spend it in a manner so as to derive optimum benefits. The main objective of raising a local authority to

financially autonomous status is to give it increased control over its finance and thus allow it to plan its own services and programmes. While this objective is desirable in order to encourage greater participation by the public in the running of local affairs, it is not possible to attain this objective when the financial resources open to it are limited. As explained earlier the majority of local authorities with the exception of the Municipalities cannot produce balanced budgets each year, if they have to rely solely on their own resources. Most of the local authorities, particularly the great majority of Local Councils, cannot even afford to employ a suitable clerk and an adequate number of labourers to run the day-to-day administration, without aid from the State Authorities.

1019. Local authorities are expected to be financially self-reliant as far as possible. This, however, does not mean that they should be wholly responsible for the expenditure involved in rendering local services. Nor does it mean that they should be independent of any financial support from the State Governments. Throughout our enquiry, it was obvious to us that many held the erroneous conception that immediately a local authority is granted financially autonomous status, it should not expect any assistance from the State Government but should endeavour to sink or swim as best it knew how. This misconception of financially autonomous status accounted for some of the unkind and unjustified criticisms that have been levelled at local authorities. Much of the State Governments' attitude and approach to most matters of financially autonomous local authorities was also conditioned by this misconception.

FINANCIAL GRANTS

1020. Nowhere in the world does a local authority function independently of financial assistance from the central government or in a federal system the central or state governments, or both. Grants from the national government are a common, and inevitable, source of finance of local authorities throughout the world. In fact, grants from the national governments are recognised as the most important source of finance in developed countries. This is more so in developing countries. In recent times, even in the advanced Western countries which can boast of a local government tradition dating back to several decades, the grants made by the national governments have been significantly on the increase. The following table shows the grants made by the national governments of these countries in proportion to the revenues of their local authorities:

	Grants		Own Revenue
United Kingdom	54%	...	46%
United States of America	35%	...	65%
Canada	40%	...	60%
Federal Republic of Germany	33%	...	67%
Sweden	36%	...	64%
New Zealand	30%	...	70%

1021. Nearer home the grants made by national governments to local authorities are also worth noting. In Japan, grants-in-aid from the national government constitutes 41% of the total revenues of local authorities. In the Philippines, 40% of local authority revenues are made up from grants-in-aid from the national government. In Ceylon, national grants make up 30% of municipal budgets, 54% of urban council budgets, 50% of town council budgets and 61% of village budgets. In India, grants-in-aid from the national government vary from 30% to 70% of the local authority revenue depending on the status of the local authority. In Thailand, 50% of the national vehicles tax goes to local authorities.

1022. Doubtless, it can be argued that local authorities in Europe, America and certain Asian countries undertake much wider functions than those of our country, e.g., in respect of education, medical institutions, police, etc. But it must be remembered that in all these countries the sources of revenue allocated to local authorities are very substantial. It must be accepted that local authorities have no revenue resources other than those which the national governments see fit to give them. This is true of our country. Local authorities in West Malaysia have only such revenue resources as the respective State Governments choose to give them. Local authorities being the lowest in the ladder of our three-tiered system of government, it is not surprising that they have been relegated to the sources of revenue which are relatively least lucrative or elastic—the Federal and State Governments having reserved for themselves those revenue resources which are more flexible and with larger yields.

1023. There are several compelling reasons why grants from national governments are becoming increasingly necessary and to an extent inevitable. To mention just a few, the national governments have retained for themselves the best sources of public revenue and are therefore obliged to assist local authorities. Local authorities have over the years been saddled with additional services and the cost of administering these services have increased considerably while at the same time no additional local revenues have been forthcoming. The national governments, particularly in developing countries, are attempting to equalise governmental services between the richer and poorer areas and this is only possible if national funds are made available for the purpose. Grants from national governments can also be utilised to stimulate local authorities to undertake new services or encourage development of a particular service.

1024. By and large, grants to local authorities by national governments take two forms, namely, general grants and specific grants. General grants are designed to supplement the revenues available to local authorities and to meet the costs involved in discharging local authority services. They are also designed to bring the poorer local authorities up to a minimum level of income or to ensure that all local authorities at a given level are financially able to provide certain basic services. The general grants paid to individual local authorities are mainly based on the needs of the authority and the resources available to it. Specific grants, as the term implies, are given in aid of a particular service or project. Usually specific grants have conditions attached by the national government to ensure that not only are the grants spent for the purposes intended but also that certain standards are maintained in the process.

1025. Reference has already been made to the fact that grants are made by State Governments to local authorities at the beginning of each year to offset possible deficits in that year. With the exception of one or two States, these grants have generally been made on no definite basis. The practice in the making of these grants has been to reduce local authority activities to the barest minimum. In not too few instances, the balancing grants given by the wealthier State Governments have been so lavish as to make local

authorities become progressively more dependent on government grants and less and less resourceful and keen in the exploitation and collection of their own revenue resources. Needless to say, the present mode of payment of grants without any rational criteria is unimaginative, inhibitive and debilitating.

1026. Grants must necessarily be made on the basis of resources and needs. The principle should be that local authorities with lesser resources and greater needs should be given bigger grants whilst those with bigger resources and consequently lesser needs should be given lesser grants. A grant system should aim to ensure that local authorities should be enabled to provide an acceptable minimum standard of services to the people for whom they are responsible. It should further aim to ensure that development in one part of the country should not lag too far behind development in another part of the country. At the same time grants must be of such amounts so as to encourage local authorities to exploit the resources at their own disposal and not become lackadaisical and less disposed to raise revenue from local sources. An over-generous grant, apart from making them more dependent on the State and Federal Government might also make them less prudent in the expenditure of such funds. In short, a grant system should be so designed as to ensure that once a local authority has exploited to the fullest the revenue resources under its control, it is given the means, by way of grants, to carry out the tasks entrusted to it.

1027. We have given due cognisance to the revenue resources available to the Federal and State Governments and in particular to the financial position of the State Governments. We are of the view that State Governments, being under the Constitution primarily responsible for the healthy development and growth of local government, should provide general grants necessary for local authorities to discharge their functions satisfactorily and effectively and ensure that local authorities are enabled to provide an accepted minimum standard of services and amenities. These grants must be made on the basis of what is just and fair and should not be coloured by political motivations. Local authorities irrespective of whether or not they are controlled by a party other than that controlling the State Government should be entitled to receive these grants and to be treated equally. To this end it is necessary for general grants to be set out on a scheduled basis so as to enable local authorities to forecast with a fair degree of accuracy what amounts of grants they could reasonably expect to get so that these could figure in their budget estimates and they can plan their activities accordingly. We are further of the view that the Federal Government should be morally bound to provide local authorities with specific grants for minor development projects. It would be up to the individual local authorities to submit their application for minor development projects to the Federal Government which would, depending on the merits of the case, make out specific grants with such conditions as it may deem necessary. This should not be taken to mean that specific grants should be made out by the Federal Government alone and that State Governments are excluded from making specific grants to local authorities. Finance permitting, and wherever justified, State Governments should also continue to make specific grants to local authorities. We believe that a combination of general grants by the State Governments and specific grants by both the Federal and State Governments to local authorities would encourage the latter to strive for higher and better standards and enable them to play a more meaningful role than they have hitherto done.

1028. **We therefore recommend that:**

(i) all local authorities should be entitled to payment by the State Authority annual general grants subject to the provisions of (ii) and (iii) hereof;

(ii) the annual general grant should be made to enable a local authority to render the services required of it by the State Authority;

(iii) the quantum of an annual general grant should be determined having regard to—

(a) the actual annual revenue of the local authority, and

(b) the real need for the grant;

(iv) all local authorities may be entitled to specific grants from the Federal Government;

(v) a specific grant may be made by the Federal Government on the application of a local authority for a specific project in its area subject to such conditions as the Federal Government may wish to impose;

(vi) State Governments should wherever possible also make specific grants to local authorities.

LOANS

1029. The needs of modern society and the infra-structure, particularly in urban areas, require such huge sums of money that it would be impossible for local authorities to meet them from current incomes or revenue reserves. Whilst in Malaysia specific grants from the Federal and State Governments would enable local authorities to undertake minor development projects, major capital projects such as sewerage and drainage schemes, construction of markets, abbatoirs and council buildings, street lighting, etc. would require substantial funds which the Federal Government cannot be expected to meet by way of outright grants to local authorities. Much less the State Governments, when one bears in mind the revenue resources available to them. Even after local authorities have been re-structured on the lines recommended by us, their ability to finance major capital projects from their own revenue resources would be out of the question for several years to come. Local authorities would therefore have to look to loans to finance major capital projects.

1030. All over the world local authorities rely on loan funds to finance capital projects. Loans as an instrument of capital financing cannot be avoided by local government. In fact it would be proper to say that financial autonomy of a local authority is imperfect if it does not have the power to borrow monies. This principle has been accepted in Malaysia. As mentioned earlier in this Chapter, the Municipalities under the Municipal Ordinance (S.S. Cap. 133) and other local authorities by virtue of the Public Authorities (Control of Borrowing Powers) Act, 1961, may borrow monies to undertake development projects. As investment on capital projects would be enjoyed by not only the present generation but also the coming generations, loan financing justifies equalisation of burdens between generations. Where revenue resources are available to local authorities too, loan financing enables them to undertake several capital projects without having to await reserve accumulation.

1031. The availability of credit facilities to local authorities is a prerequisite for the promotion of major capital projects. In most European and developed countries local authorities are empowered by law to raise loans by floating bond issues within the country and in international money markets. In most cases national governments make direct loans available to local authorities. In yet other cases, particularly in Kenya and other African countries the national governments have established special agencies to make loans available to local authorities.

1032. In Malaysia, local authorities have hitherto depended exclusively on the Federal Government to grant loans for financing major capital projects. But as explained earlier only the larger local authorities have been able to take advantage of it and even funds made available to them in relation to the Development Plan have been meagre. Not all the State Governments are in a position to advance loans to local authorities.

1033. We are of the view that local authorities, for the present and for some time to come, should not be allowed to float loans by the issue of bonds either internally or internationally. Nor should they be encouraged to borrow from commercial banks or other credit finance institutions. Banks and credit finance instutions are unlikely to be interested to provide local authorities with loans for long term investments they seek, and even if they do, it is felt that the interest rates would be too high and the terms too stringent as to preclude their use by local authorities. Local authorities must therefore look to the Federal Government and the latter be responsible to make available loans for major capital projects.

1034. We have in mind the setting up in Malaysia of a Local Authorities Credit Fund by the Federal Government very much on the lines of the Municipal Credit Agency in Kenya and some other African States. The proposed Local Authorities Credit Fund should have an authorised capital, say, $50 million initially. It should be charged with the responsibility of providing loans to local authorities at reasonable rates of interest, both short-term and long-term loans, to finance major capital projects. It should, in addition to making available loans, also provide expert financial and technical advice on the projects to be so financed. To this end it would prepare at no cost to the local authority model plans on capital projects and costings for the approval of the local authority. By prudent administration and allocation of short and long-term loans, the Fund could ensure that at all times a rotation fund is available from loan repayments. Such a Fund would also be in an advantageous position to contribute towards co-ordination of physical planning, e.g. in respect of sewerage and drainage projects between neighbouring local authorities. It would also serve as a simple means of control by the Federal Government to ensure that local authorities are not overborrowing or repaying their loans over excessively long periods.

1035. We therefore recommend that the Federal Government establish a Local Authorities Credit Fund with the following functions:

(i) to provide short and long-term loans to local authorities on reasonable terms;

(ii) to provide, free of cost, expert financial and technical advice on projects for which the loan is required.

NEW SOURCES OF REVENUE

1036. As was to be expected in an enquiry of this nature, several witnesses took the opportunity to state that the sources of revenue allocated to local authorities were so limited, inflexible and capable of so little yields that local authorities could never be expected to raise sizeable revenues from these sources. It was argued that the Federal Government was deriving revenue from such lucrative sources as personal income tax, taxes on exports and imports, motor registration fees, tax on petrol and consumer goods, etc., and that as of right local authorities should be given a definite percentage of the revenue from these sources. Several witnesses stated that cess on sale of rubber was paid to the Federal Government and it was only fair that local authorities should be allowed to levy and retain some portion of this for themselves. It was also suggested that tax on petrol should directly accrue to local authorities. It was similarly argued that the State Governments in addition to their revenue resources were under the Constitution receiving from the Federal Government capitation grants and State-road grants, none of which was trickling down to the local authorities. It was further submitted that entertainment tax collected by State Governments in respect of entertainment, floor shows and movies should properly be a local authority revenue as it was essentially local in character, paid for by local residents and therefore must be made over to local authorities. In short, it was the general consensus that there was justification for a further allocation of taxable sources of revenue to local authorities.

1037. Some of the arguments adduced in evidence throughout our enquiry have merit particularly when one considers the revenue resources available to most local authorities throughout the world. Just to illustrate this point we append hereunder some of the revenue resources of local authorities in other countries:

Taxes on Property—
- Rates
- Property Tax
- Land Tax
- Building Tax
- Improvement Tax
- Development Tax.

Personal Taxes—
- Local Income Tax
- Inheritance Tax
- Poll taxes on all resident adults.

Taxes on Economic Activities—
- Business or Trade Tax
- Payroll Tax
- Entertainment Tax
- Advertisement Tax
- Capital Gains Tax
- Cesses (taxes on sales or production)

Professional Tax
Cattle Tax
Tourist Tax
Building Permits
Abattoirs.

Licences and Fees—
Sale of Liquor
Dogs
Hawkers
Restaurants and Hotels
Firearms
Game
Verification of Weights and Measures
Obnoxious and Dangerous Trades
Non-motor Vehicles.

Miscellaneous Taxes—
Tolls
Tax on Fire Insurances
Riverboat and Ferry Services
Court Fines
Cemeteries and Crematoria.

Taxes shared with National Governments—
Motor Vehicle Registration and Licence Fees
Petrol Tax
National Income Tax.

Profits from Investments—
Public utilities, e.g., Electricity, Water, Transport, etc.
Housing Development
Trade Undertakings
Rest Houses.

1038. As mentioned earlier in this Chapter some of the sources of revenue listed above have already been allocated to local authorities in West Malaysia. The following sources of revenue, however, do not fall within the domain of local government in West Malaysia unlike in other countries:

Property Tax
Land Tax
Building Tax
Improvement Tax
Development Tax

Local Income Tax
Inheritance Tax
Poll Tax
Business or Trade Tax
Payroll Tax
Entertainment Tax
Capital Gains Tax
Cesses
Professional Tax
Cattle Tax
Tourist Tax
Licences for sale of Liquor
Licensing of Dogs (at present collected by Municipalities only)
Firearms Licences
Game Licences
Verification of Weights and Measures
Tolls
Tax on Fire Insurances
Riverboat and Ferry Services
Court Fines
Motor Vehicle Registration and Licence Fees
Petrol Tax.

In our country most of the sources of revenue referred to above have, under the Constitution, been allocated to either the Federal or State Governments. The position is no different in other countries. These sources of revenue are either those of the central government in a unitary state or of the federal or state government in a federal state. But the fact is, the national governments of most of these countries have allocated their sources of revenue to the local authorities with the express object of supplementing the revenues of local authorities.

1039. In West Malaysia, 88.6% of the total national revenue accrues to the Federal Government whilst 7.1% of the total annual revenue goes to the State Governments. Only 3.3% of the total annual revenue of West Malaysia accrues to local authorities. This does not include the revenue of the Municipality of the Federal Capital which amounts to 1% of the national revenue (*See* Chart II). But as explained in Chapter VI the total revenue of the 3 Municipalities account for almost 60.2% of the total annual revenues of all the 373 local authorities. Clearly there is ample justification for the Federal Government to move in and play a greater role in the financing of local authorities than it has done hitherto.

1040. We have recommended the setting up of local authorities on the basis of existing districts, and in the years to come the call on the local authorities to provide services and the setting up of requisite infra-structure for economic and social development will be on the increase. It will therefore become necessary in the not too

distant future for local authorities to be provided with additional sources of revenue. Consequently, it would be incumbent on the Federal and State Governments as the case may be to allocate additional sources of revenue to local authorities from those sources enumerated above. This could be done by one of three ways: (*a*) the revenue resource could be allocated exclusively to local authorities; (*b*) the revenue resource could be shared between the Federal or State Government as the case may be and the local authorities; and (*c*) local authorities could be enabled to levy a tax or fee in addition to that levied on a revenue resource by the Federal or State Government as the case may be. The question of further allocation of revenue resources to local authorities should be reviewed from time to time by the National Council for Local Government. In allocating additional revenue resources to local authorities, the National Council for Local Government should consider and fix the minimum and maximum range of fee within which every local authority should be given the discretion to fix its own level of fee in respect of the trades and businesses within its area having regard to local conditions. It is important that a statutory maximum should be placed on the rate or fee that may be levied by a local authority in respect of a revenue resource. Control over the powers of local authorities to levy rates and fees are essential for reasons of economic and fiscal policy co-ordination, and because local authority expenditures constitute an important proportion of public expenditure. Care should be taken to ensure that in allocating additional revenue resources to local authorities, local conditions are taken into account and should be such that they are practicable for adoption in our country whatever the experiences abroad may be in respect of these revenue resources.

1041. At present not all trades and businesses within a local authority area are licensed by local authorities. Licence fees are levied in the main only in respect of those enterprises where in the interests of public welfare or health, regulatory services have to be provided by local authorities as in the case of licensing of eating houses and restaurants, hotels, hawkers and the like. Other trades and businesses like goldsmiths, textiles, sundry shops, bicycle shops, book-shops, electrical appliances shops, photo studios, watch dealers, furniture dealers and a host of other trades and businesses are not required to pay a licence fee or any form of contribution to the local authorities. We are of the view that all trades and businesses within a local authority should be required to pay a licence fee each year to the local authority in which they are situated. The proposed Local Government Act should have a provision to empower local authorities to levy a fee on all trades and businesses registered under the Registration of Businesses Ordinance, 1956. The National Council for Local Government should consider and fix the minimum and maximum range of fee that may be levied by a local authority in respect of any trade or business and it should be left to the individual local authorities to fix the fee they wish having regard to their own local conditions. In our view it is only fair that every trade or business within a local authority area should contribute some fee to its local authority in view of the fact that its income very largely depends on the general development generated by the local authority. We do not see any justification in limiting such payments to coffee shops and eating houses and exempting most of the other businesses from such liability. In these days of economic inter-dependence no business can function without the direct or indirect impact of developments brought about in the surrounding areas. As such, every business and trade in a district should be obligated to make a contribution to its local government. We believe that so long as the maximum level of fees that may be charged is reasonable, not only would a fair income accrue to local authorities but also would not impose an undue burden on local traders and businessmen or discourage local commerce.

1042. There is one other source of revenue that we recommend should be allocated to local authorities with immediate effect and that is a Property Tax. This will be dealt with in greater detail in the following Chapter on Legislation as the basis and mode of evaluating the Property Tax will constitute a major departure from the existing legal provisions in respect of revenue resources of local authorities.

1043. We recognise that the key to achieving greater financial strength in local authorities lies not in the allocation of additional taxable sources but in a fuller exploitation of the revenue resources under the control of local authorities. The sources of revenue already available to local authorities together with licence fees from trades and businesses and the Property Tax referred to above are capable of yielding substantial revenue if exploited diligently and honestly.

1044. Candidates have been known to campaign in local government elections for lower taxes while at the same time promising new programmes and projects. In one instance, candidates of a political party in the State of Kelantan campaigned on a platform that if they came into office no taxes would be collected. They won the election and since then they have tried, though unsuccessfully, to make-do purely from the revenue derived by hiring out their only tractor. It was evident throughout our enquiry that in spite of the fact that recurrent expenditures of local authorities have been on the increase, councillors were most reluctant to raise taxes to meet the increased expenditures and thereby obviate serious deficits. On the other hand, no attempt seems to have been made to cut down expenditures in relation to revenues collected. Arrears of rates have accumulated over the years with little or no effort made to recover them. Numerous instances were quoted of councillors dissuading officials from collecting rates and arrears.

1045. Councillors must realise that local government and its democratic management carries with it the cognate responsibility of mobilising the resources available to the authority. Ratepayers must be made to understand that taxation is the price one must pay for self government and development. Councillors have a duty to explain to their electorate the taxation policies of the authority and emphasise that without funds the programmes of services of the local authority cannot be implemented. By being honest and bold in their approach they can by improving the quality of the programmes and services, surely overcome the resistance of people to pay rates and win their confidence and co-operation. Whilst officials should be responsible for the collection of rates, councillors should also assist by persuading the ratepayers to pay their dues promptly and not serve as a brake on the officials' efforts in collecting the rates.

1046. More specifically, we are of the view that significant additional revenues could be realised if local authorities exploit the revenue resources at their disposal and that unless they do this, they cannot with clear conscience ask for additional taxable resources. Local authorities should therefore be encouraged in the first instance to exploit their revenue resources. Only if this is done is there justification for further allocation of revenue resources. The Federal and State Governments should for their part from time to time review the revenue resources of local authorities through the National Council

for Local Government, and make such allocation of taxable sources to local authorities as would enable them to raise the requisite revenues to discharge their functions effectively.

1047. We therefore recommend that:

(i) all trades and businesses registered under the Registration of Business Ordinance, 1956, should be required to pay a licence fee annually to local authorities;

(ii) the National Council for Local Government should fix a statutory minimum and maximum range of fee that may be charged by a local authority in respect of any trade or business and it should be up to the individual local authorities to at its discretion fix the level of fees to be charged therefor;

(iii) the National Council for Local Government should from time to time review the revenue resources available to local authorities and make such allocation of taxable resources to local authorities as would enable them to discharge their functions effectively;

(iv) such allocations of additional taxable resources may be done by one of the following three ways—

(a) by allocating a revenue resource exclusively to local authorities;

(b) by sharing a revenue resource between the Federal or State Government on the one hand and the local authorities on the other;

(c) by enabling local authorities to levy a tax or fee in addition to that levied on a revenue resource by the Federal or State Government as the case may be.

REVALUATION OF PROPERTIES

1048. Although the main source of local authority income as explained earlier is through rating, most of the local authorities have no up-to-date assessment lists of rateable properties within the authority areas. With the exception of Penang Municipality no local authority has revalued its property in the last ten years. In the case of Penang a revaluation exercise has been carried out, but the revised valuation list has as yet not been implemented.

1049. There is at present no statutory requirement for local authorities to revalue their properties at regular intervals.

1050. Except for the Municipalities, all the other local authorities have no qualified Valuation Officers and the valuations are carried out mainly by Building Inspectors, Health Inspectors and Assessment Clerks. More specifically, local authorities do not have competent personnel to undertake revaluation exercises, or for that matter, to value the properties on a scientific basis.

1051. Under the existing local government laws the power to consider appeals against any assessment is vested in the Council Chairman and the Assessment Committee of the Council. In many cases these Committees have not been consistent in the consideration of the appeals, resulting in further irregularities in the assessment lists.

1052. We were informed by the Chief Valuation Officer of the Valuation Division of the Treasury that from a survey carried out in 1965 some startling facts were revealed on the conditions of local authority rating in general. From the returns received it was

estimated that only about 3% of the local authorities have qualified officers and another 3% have technical assistants. The rest of them seem to have no technical staff to prepare these lists. It was also evident from the survey that many local authority assessment lists were being carried forward year after year without any steps being taken to bring them up to the prevailing rental values. In other words, the rates collected do not reflect the current value of these properties. New buildings are being valued at prevailing rental levels, while buildings of similar type, but older and drawing similar rents are yet valued at the old rental levels. This has resulted in lack of uniformity in the valuation lists from one authority to another. The survey also revealed that less than 20% of the local authorities have proper records of the properties under valuation and no revaluation could be carried out with reasonable accuracy and uniformity if proper records of properties are not available.

1053. The Auditor-General, Malaysia, who also gave evidence pointed out that several local authorities have failed to include many new buildings in their valuation lists for several years, thereby losing considerable revenue. There were also cases of several local authorities having on their list properties which had long since fallen to the ground, thus distorting the actual arrears due to these authorities.

1054. In this connection, we were informed that the Federal Government has already completed drafting a Central Valuation for Rating Bill, which would provide for the setting up of a Central Body, responsible for the professional work of estimating the annual value of the properties in local authority areas and the preparation of proper lists on which local authorities could levy their rates. The task of valuing properties would be entrusted to proper Valuation Officers appointed by the Minister of Finance. These officers will work independently under the supervision and authority of the Chief Valuer and would be free from any interference by the local authorities. Their duty would be to prepare an unbiased, uniform and proper valuation list which, after authentication, would be handed over to the local authorities, who would use the lists for levying and collection of rates. The local authorities would have no power to alter the lists. Any appeals against the valuation of properties would be referred to an assessment committee appointed by the State Government with a right for a final appeal to the High Court. Provision is also made in the Bill for a general revaluation of properties in local authorities once every five years. The proposed Bill, therefore, seeks to take away only the power of the local authority in the valuation of properties, whilst the authority is still free to levy any rate it proposes, having regard to the annual values and the amount of revenue it would require for any one year.

1055. We are satisfied that the proposed Central Valuation for Rating Bill will not only ensure uniformity in the valuation of properties within local authorities, but also prevent any interference by councillors on the valuation of properties. We are confident that under the proposed Bill, properties would be valued objectively and without other extraneous considerations coming into the picture. As rates on properties will continue indefinitely to be the chief source of revenue to any local authority, there is no gainsaying the need for a proper valuation list prepared by professional officers. These records will also facilitate speedy and effective valuation for other valuation purposes such as Estate Duty, Stamp Duty and cases of compulsory acquisition by Government. The requirement for a general valuation of properties in local authorities once every five years will ensure that values of properties will be more realistic than they have been hitherto.

A proper procedure for appeals, as provided in the Bill will make possible consistency in the determining of appeal cases.

1056. We therefore recommend that:

(i) the proposed Central Valuation for Rating Bill, be introduced and passed by Parliament with the minimum of delay;

(ii) a general revaluation of rateable properties be undertaken throughout West Malaysia as a matter of utmost urgency.

RATING OF CONTROLLED PREMISES

1057. We noted that although the National Council for Local Government had approved an amendment to the definition of 'annual value', as appearing in the Municipal Ordinance (S.S. Cap. 133), the Town Boards Enactment (F.M.S. Cap. 137) and other corresponding legislation, to free the estimation of 'annual value' for assessment purposes in respect of controlled premises from the then Control of Rent Ordinance, 1956, there are still several local authorities, including the Municipalities of Penang, Ipoh and Malacca, which are valuing controlled buildings on the basis of actual rentals paid by tenants to landlords and not on the economical rental the building would otherwise be reasonably expected to let if it were not a controlled premises. Consequently, a considerable amount of revenue is unnecessarily lost to these authorities. Local authorities make no distinction in the standard of services provided to occupants of controlled premises and those in newly erected buildings which are not subject to rent control.

1058. It is to be noted here that a tenant in controlled premises is protected by the Control of Rent Ordinance, 1956, and latterly by the Control of Rent Act, 1966, in so far as the rent payable by him to the landlord is concerned. Similarly, a landlord is restricted as to the rent he may collect from a tenant. In law, local authority rates are payable by the owner, but in effect local authority rates are paid by the occupier as both the above referred legislation permit the owner of a rent controlled premises to pass on the increases in rates to the tenant. This is rightly as it should be, as it is the occupier and not the owner who enjoys the benefits of local authority services. There are no good grounds on point of equity, therefore, why a tenant of a rent controlled premises who benefits from limitations on the rent payable by him, should also benefit by having the rates payable, in effect by him, restricted to an amount based on the controlled rent.

1059. We therefore recommend that controlled premises should be valued in the same manner as those premises not subject to rent control and that the provision enabling local authorities to disregard the effect of rent control in the valuation of controlled premises should be retained in the proposed Local Government Act.

LICENCE FEES

1060. As stated earlier, fees from licences constitute the second largest source of revenue to local authorities. Existing local government legislation make extensive provisions for the levy of licence fees in respect of eating houses and restaurants, hotels, hawkers, barbers, massage parlours, petrol stations, non-motor vehicles, sanctioning of building plans, etc. If intelligently applied they should yield sizeable revenue.

1061. From the evidence given to us and our own observations, we are satisfied that local authorities have not made the fullest use of this valuable and useful source of

revenue. The approach and attitude towards this field of revenue has been, at best, only to charge such fees as would primarily cover the administrative costs of regulatory services. It is becoming an accepted practice of local government finance that fees from licences need not be related to expenditure incurred by the local authority on the discharge thereof but should be used as an important tool to augment local authority revenue. Larger revenue from this source would enable local authorities to in turn recruit competent personnel in such numbers as to ensure more efficient regulation of matters affecting the health and sanitation of the community. Clearly, there is need for a complete review in this regard and fees raised to realistic levels. Care, however, should be taken so that increases do not become prohibitive as to discourage productive activities and inhibit development.

1062. We therefore recommend that:

(i) a complete review be undertaken in respect of licence fees with a view to raising them to realistic and acceptable levels;

(ii) there should be strict enforcement of the law in the issue of new licences and renewals thereof and against illegal traders.

CONSERVANCY, SCAVENGING AND TRADE REFUSE FEES

1063. We noted that the Auditor-General's annual reports on the accounts of the State Governments are replete with instances of sizeable amounts of fees in respect of conservancy and scavenging still unpaid to local authorities. We consider that the system of charging separate fees for separate services would only add to the administrative and accounting difficulties of local authorities. Normally these fees are very small in amounts and the recovery of the arrears of such fees by the process of court would be tedious, expensive and time consuming. They might on the other hand be conveniently consolidated with the assessment rate as is done in the case of the Municipality of Kuala Lumpur. We are therefore of the view that such fees as are charged in respect of conservancy, scavenging and trade refuse disposal should be consolidated into the assessment rate. Local authorities in determining the assessment rate that is to be charged in any year should take into account the cost involved in providing such services. Hence, by a differential rating system people in areas within a local authority receiving all or some of these services would be required to pay a higher assessment rate than those in areas not having the benefit of these services.

1064. We therefore recommend that instead of separate fees being levied in respect of conservancy, scavenging and trade refuse disposal services, the cost involved in discharging these services should be considered into the general assessment rate.

CONTRIBUTION-IN-AID OF RATES

1065. Mention has already been made earlier that contribution-in-aid of rates form another source of revenue to local authorities. Article 156 of the Malaysian Constitution specifies that although the Federal Government, a State Government or a Public Authority (i.e., the Malayan Railway Administration, the National Electricity Board and the Port Authority) is not liable to pay local rates in respect of any lands, buildings or hereditaments occupied for a public purpose by them or on their behalf, they are nonetheless required by the said Article to make a contribution-in-aid of those rates. The quantum of contribution payable is a matter to be agreed to between the Federal

Government, the State Governments or the Public Authority as the case may be and the authority levying the rates, and if agreement cannot be reached, provision is made for the dispute to be determined by a Tribunal consisting of the Chairman of the Lands Tribunal established under Article 87 of the Constitution and two members of whom each of the parties concerned appoint one.

1066. The principles for assessing the contribution-in-aid of rates payable in respect of Federal Government properties situate in local authority areas as agreed to by the Federal Government and the local authorities, and subsequently sanctioned by the National Council for Local Government in November, 1965, are as follows:

"(*a*) 100% Constribution of the General Rate payable in the area in which its property is situate; vacant land and property occupied exclusively as educational, medical, religious purposes, or the fine arts, excluding property connected therewith but used for residential purposes, will *NOT* be so assessed.

(*b*) It will not pay contribution in respect of—

(i) Improvement Rate;

(ii) Drainage Rate;

(iii) Education Rate; and

(iv) Water Rate.

(*c*) It would pay 75% of the full contribution in respect of all Federation Armed Forces property.

(*d*) It will reimburse State Governments to the extent of the contribution-in-aid of rates in respect of pool quarters occupied by Federal Officers as on 1st January of the year in question subject to review when the final ownership of pool quarters is eventually determined."

1067. Prior to reaching agreement as above, and currently in some instances, the Federal Government has been making "on account" payments to local authorities in respect of this liability. We are informed that the Valuation Division of the Treasury is at present actively taking action to value all Federal Government buildings in local authority areas and when completed to effect payments after making the necessary financial adjustments having regard to the payments made hitherto "on account" of those liabilities. We are also informed that some of the local authorities have been overpaid and in all these instances no further payments would be made until such time when the total amount of overpayments have been adjusted against the yearly contributions due to these authorities.

1068. Having regard to the foregoing, we are satisfied that the contribution-in-aid of rates paid by the Federal Government on the basis of the principles of assessment referred to above is fair and equitable.

1069. We noted that a number of State Governments have as yet not come to any agreement on the contribution-in-aid of rates payable by them in respect of State Government properties though "on account" payments were continuing to be paid. There were yet others that have not been making any contribution-in-aid of rates on the ostensible excuse that since they were already making other forms of contributions by way of grants and subventions which are comparatively more substantial, they were not obliged to pay contribution-in-aid of rates. This line of argument, to say the least,

is spurious. Article 156 of the Constitution is very clear on the question of liability by the State Governments in respect of State Government properties. Agreement on the quantum payable must be reached by negotiation, failing which the dispute must be settled by reference to the Tribunal set up for the purpose. Any departure from this procedure would not be within the spirit of the Constitution and refusal to pay would be violative of the Constitution.

1070. The National Electricity Board and the Port Authority have in most instances come to an agreement with the local authorities on the question of contribution-in-aid of rates payable by them in respect of their properties. In the case of the Malayan Railway Administration, some token payments have been made subject to complete valuation and agreement being reached on railway properties. We are informed that a Colombo Plan Expert has recently made a complete valuation of railway properties situate within local authority areas and has submitted his recommendations to the Railway Administration which would make its offer to the local authorities immediately a decision is taken thereon.

1071. One other point that figured frequently throughout our enquiry was that there were delays in the payment of contribution-in-aid of rates by all concerned to the local authorities. Too often, payments were made towards the end of the year which precluded its utilisation within that year. Delays in payment again made it difficult for local authorities to plan in advance their programmes and activities for the year.

1072. We therefore recommend that:

(i) the State Governments that have not already come to an agreement with local authorities on the quantum of contribution-in-aid of rates payable, should do so without any further delay;

(ii) the Malayan Railway Administration should, as a matter of utmost urgency, reach agreement with the local authorities on the contribution-in-aid of rates payable in respect of railway properties;

(iii) in the ensuing years contribution-in-aid of rates by the Federal Government, the State Governments and all Public Authorities, should be made to local authorities not later than February of that year so that local authorities would be better able to plan their activities and put to maximum use revenue from this source.

FINANCIAL CONTROLS

1073. It was made out to the Commission that much of the mismanagement, abuses and maladministration in local authorities was due to the lack of effective financial controls over them. Evidence was given to the effect that due to shortage of funds several local authorities had used for general day-to-day purposes Government grants given for specific purposes. Several local authorities were also known to have seriously delayed paying to State Governments considerable sums of state revenue that they were required to collect on behalf of the State Government and to have made use of the money temporarily for their own purposes. Again, due to lack of funds, several local authorities had also delayed payment of bills as and when due to the National Electricity Board, the Water Works Department, the Registrar of Motor Vehicles, etc.

1074. Instances were quoted where local authorities had spent council funds for purposes other than those for which they were permitted to be spent. In one Local Council, the funeral expenses of the Chairman of the Council were met from council funds. In another Local Council, funds of the council were utilised to hold a farewell party for the Secretary who was leaving the authority to take up appointment elsewhere. In yet another council, "angpows" (New Year cash gifts) were paid out from council funds at the direction of the Chairman of the Local Council. All these were highly irregular and unlawful acts.

1075. The Auditor-General's reports on the accounts of the various States, abound with evidence of local authorities having spent authority funds to a greater or lesser extent in excess of, or outside of, the approved budget without prior sanction from the State Authority. The Auditor-General, Malaysia, in his evidence stated that a large majority of the local authorities, with the exception of the Municipalities, did not have accounts on an income-expenditure basis. Several local authorities had not reconciled their accounts for four years or longer, and hence his Department was unable to ascertain whether these registers were in order or not, and whether or not there had been serious irregularities in their accounts. Lack of proper trained staff also accounted for the fact that accounts of local authorities were not kept properly. Lack of regular supervision and guidance by the relevant officials of the State Authority could be said to have contributed to this unsatisfactory state of affairs. There had been inordinate delays on the part of local authorities to submit their annual accounts for audit. Although the Audit Department was in the practice of sending copies of the Audit Observations to the State Governments, little or no real action has been taken by most State Authorities to improve or regularise the position.

1076. We are of the view that the Municipal Secretary or the District Secretary as the case may be should be held personally accountable for expenditures on purposes other than those approved by the State Authority and should be liable to surcharge to that extent. The State Governments should pay serious attention to the audit observations on individual local authorities and see that remedial steps are taken by the authorities concerned. Effective financial control should be exercised by the proposed State Commissioner of Local Government in every State. It should be his task to see that local authorities do not spend council funds for purposes other than those approved in the budget. Timely and effective action by the State Commissioner of Local Government in the State can ensure that things do not get out of hand. This can be achieved by his regular visits to the local authorities and by giving on the spot advice on financial and related matters.

1077. We noted that although the Municipal Ordinance (S.S. Cap. 133) specifies that Municipalities should submit a report on Municipal finance as the Ruler/Governor-in-Council may direct and for the report to be published in a *Gazette*, there was no such requirement in the Town Boards Enactment (F.M.S. Cap. 137) and corresponding laws in respect of Town Boards and Town Councils until as late as 1967. An amendment effected in that year to the Town Boards Enactment (F.M.S. Cap. 137) and other corresponding laws require all Town Councils and Town Boards to submit their accounts for audit by the 31st day of May in each year in respect of the account of the previous year and for the audited accounts to be submitted to the Ruler-in-Council and thereafter for such accounts to be gazetted together with the audit observations

thereon. We consider it imperative that such a provision should be retained in the proposed Local Government Act as it would prevent local authorities from being lax in the manner in which the accounts of the authority are kept.

1078. It was evident to us that there exists a very grave need for a complete review of the existing accounting procedures and for the drafting of uniform model accounting procedures for adoption by all local authorities. Items of revenue and expenditure should be categorised under proper headings so that not only would it provide a clear and comprehensive picture of the financial position of the authority but also facilitate comparative studies in local government finance. This latter aspect is extremely important if in the future local authorities are to take on increased responsibilities and functions and are to be enabled to discharge them efficiently. We are of the view that the Ministry of Local Government and Housing in co-operation with the Auditor-General's Office should have model uniform accounting procedures prepared for adoption by local authorities throughout the country.

1079. We therefore recommend that:

(i) the Secretary to every local authority be made personally accountable and liable to surcharge for any expenditure on purposes other than those approved by the State Authority;

(ii) State Governments should be responsible to ensure that audit observations are acted upon by the individual local authorities;

(iii) the provision requiring local authorities to submit their accounts for audit by a fixed date, their submission to the Ruler/Governor-in-Council and for their subsequent gazettal with audit observations thereon, should be retained in the proposed Local Government Act;

(iv) the Ministry of Local Government and Housing in co-operation with the Auditor-General's Office should draft model uniform accounting procedures for adoption by all local authorities.

COLLECTION OF RATES AND ARREARS

1080. The subject of arrears of rates outstanding to most local authorities was brought home to us with great force at our sittings during the enquiry. Evidence was given of the huge sums of arrears of rates that have been allowed to accumulate and which have tended to grow from year to year with no serious attempt made to recover them. Though the Auditor-General, Malaysia, had frequently drawn the attention of the State Governments and local authorities concerned to the large arrears of rates uncollected, no serious effort has been made by either to improve the position. Some councillors were reported to have brought pressure to bear on key officers of the authority not to collect arrears of rates and officials have also been reported to have been reluctant to enforce payment of arrears for fear of victimisation by councillors. Even some councillors, their relatives, prominent citizens and senior government officers were reported to have been in arrears of payment. We also received evidence that the Trengganu State Government issued a circular letter in 1959 to all District Officers not to enforce Section 7 (4) of the Local Councils Ordinance in respect of recovery of rates in Local Council areas. Needless to say, such action by the State Government defeats the very purpose of the law.

1081. We conceived it our task, therefore, to examine what accounted for these arrears of rates and make proposals how best such occurrences could be avoided. Was it the law on recovery of rates that was found wanting? Or, was the non-collection of revenue due to lack or absence of enforcement by the councillors, the administrative staff, or both? These were some of the questions to which we had to find answers.

1082. Let us first look at the laws in respect of recovery of arrears of rates. The power for recovery of arrears of rates in respect of Municipalities and the District Councils in Penang and Malacca, which operate under the Municipal Ordinance (S.S. Cap. 133), is vested in the Commissioners. In the case of Town Councils and Town Boards, the Town Boards Enactment (F.M.S. Cap. 137), and other corresponding legislation, vests the power of recovery of arrears of rates in the Chairman of the Town Councils or Town Board who is in most cases the District Officer. In the case of Town Councils with an elected President, this power is vested in the Secretary to the Council. But in the case of Local Councils the power to recover arrears of rates is partly vested in the Council as a whole and partly in the District Officer.

1083. The manner and procedure for the recovery of arrears of rates are, with the exception of the Local Councils, the same in all local authorities. In the first instance, the local authority has the power of seizure and sale of movable properties whenever arrears become payable. If the proceeds from the sale of movable properties is not sufficient to cover the arrears due to the authority, the local authority may, on an Order from the Court, seize immovable property, i.e. the building or land on which rate is payable. Local Councils, however, have the power of seizure and sale only of movable properties.

1084. It was clearly obvious to us that the Municipalities have been collecting their rates effectively and efficiently and the arrears outstanding were insignificant as compared to their total annual revenue. With the exception of a few Town Councils, Town Boards and Local Councils the rest of the local authorities had large amounts of accumulated arrears of revenue ranging from 25% to 500% of their annual revenue in any one year.

1085. When asked to account for these huge arrears of revenue, the elected councillors of the Town Councils stated that much of the arrears were in fact the legacy left them by the authority from their Town Boards days. They further stated that the power for the recovery of arrears of rates was vested in the person who was the Chairman or the Secretary in the case of a Town Council with an elected Chairman. As elected councillors, they could at best only persuade the ratepayers to pay up whatever rates were outstanding. From their point of view, it was up to the Chairman or the Secretary to the Council as the case may be to act as empowered under the law. Similar views were expressed by the nominated councillors of Town Boards for the not insignificant amount of arrears outstanding even in Town Boards.

1086. It was generally complained by officials that in a number of cases, councillors, both elected and nominated, either overtly or covertly, stood in the way of strict law enforcement against defaulters. Whenever the council was asked to sanction actions against defaulters, the councillors on many occasions were rather reluctant in giving their support for political or other irrelevant reasons. It was further stated by the officials that the Town Boards Enactment, as it stood, permitting the local authorities to attach and sell movable properties of the defaulters was unsatisfactory as difficulties

were encountered in finding suitable places to store the properties seized. There were also difficulties experienced in the sale of seized properties. The procedure for seizure of immovable properties was also unsatisfactory in that it required a Court Order which in most cases took several months or even years to obtain. When it was pointed out to the officials that the law clearly placed the responsibility of recovery of arrears of rates on them directly and that they were not obliged to obtain the sanction of the councillors to any proposed action against defaulters, some of them even frankly admitted that their inability or unwillingness to enforce the law was largely due to the displeasure they would have to incur from the councillors and the public. There is no doubt that in a number of cases the officials took the line of least resistance in dealing with these defaulters.

1087. In the case of Local Councils, Section 7 (4) of the Local Councils Ordinance empowers the District Officer, on receipt of a report from the Local Council, to order the seizure and sale of movable property of persons in default of payment of rates or fees. We were told that he very seldom acted on such reports due to pressure of other work or because he was not conversant with this provision in the law or because he did not wish to court unpopularity. It was explained to us by the District Officers that they were unable to issue orders of seizure of movable properties in the absence of a report being made by the council in the first instance. From their point of view, the law was very clear. Only on receipt of a list of defaulters from the council, were the District Officers expected to issue orders for such seizure. Against this line of reasoning, we heard yet other evidence that it was up to the District Officer to call for such lists if, over a protracted period, none was forthcoming from the council. After all, was he not supposed to advise the councillors on the various provisions of the law? We were told that it was the reluctance or lack of initiative on the part of the District Officers that accounted for the considerable amount of revenue that still remained uncollected in Local Councils. It was further pointed out to us that in a Local Council area, councillors and the ratepayers generally lived in the same village and were often related to one another or were close friends or belonged to the same political party.

1088. The strict enforcement of the law would be inimical to their relationship and would also appear to be a harsh act against friends, relatives or members of the same political party. Fear of losing favour with the people and consequently losing future elections and even threat of bodily injury from undesirable elements in the village were also other considerations. In not too few instances, councillors were businessmen having their shops in the Local Council area and the fear was always there that unpopular action such as seizure of movable properties would result in the boycott of their business. It was further pointed out that in most cases of default the villagers were poor and there was practically no movable property to be seized. There was also difficulties in storing the seized properties and in finding buyers for them, as people in the area felt it awkward to purchase seized properties that once belonged to their friends or neighbours.

1089. In the case of councillors in Local Councils, we are of the view that they had at least some mitigation in their favour. They were members of the public with no administrative experience and were generally unsophisticated in the management of local authorities. This was perhaps the reason why District Officers were, from the very outset, associated in enforcing the law against defaulters in Local Council areas.

On the whole, the District Officers have failed in discharging their duties in respect of defaulters. Even if the councillors were reluctant to take steps to enforce the law for political or parochial reasons, there was no excuse for the District Officers for not doing their duties with a degree of initiative and guidance expected of them. They cannot therefore escape responsibility for the deplorable state of arrears of rates in Local Council areas.

1090. Taking all the local authorities as a whole, we are of the view that the provisions obtaining in the various local government legislation were by themselves sufficient and that had they been honestly and diligently enforced, the arrears outstanding would not have been as large as they were. Seizure and sale of movable properties is the traditional and accepted form for recovery of arrears by local authorities throughout the world. Granted that this procedure might not have lent itself to effective application in Local Council areas it could nevertheless have been applied with considerable success in Town Council, District Council and Town Board areas. The blame for non-enforcement of the law must fall squarely on the councillors and officials as the case may be. It was their general reluctance to act according to the law that accounted for these arrears. Even granted that obtaining a Court Order to effect sale of movable properties take time, the evidence before us indicated that the number of cases before the Courts was nowhere near the actual number in arrears—a clear manifestation of the lack of seriousness and responsibility in the recovery of arrears of rates by those concerned.

1091. We consider it imperative that collection of rates and the recovery of arrears should be entrusted to officials. It is for this reason that we do not wish to advocate the involvement of councillors in law enforcement generally and in particular the collection of rates or the arrears thereof. We further consider that the proper person to be held responsible for prompt collection and enforcement in respect of arrears should be the Secretary to the local authority. There should be absolute discipline in the collection of amounts due and the law should be precise on the question of recovery. That is to say, an automatic system to enforce payments of dues should be built into the law. Immediately there is default in the payment, the Secretary should take action against the defaulters for realisation of dues. The councillors should have no say at all in the matter. In this connection, we are very much attracted by the system in force in Sarawak where rates, fees or other charges in default, become a charge on the property when a notice in the proper form is sent to the Registrar appointed under the Land Code. All fees payable by the local authority in connection with the registration of the charge together with interest on the amount of arrears, from the date of registration, is deemed to be a charge upon the property. This, we consider, should be in addition to the powers of seizure and sale of movable properties. A fine or term of imprisonment should be imposed on anyone found guilty of trying to dissuade or hinder the Secretary in the discharge of his responsibility in regard to collection or recovery of rates.

1092. We therefore recommend as follows:

(i) the Secretary to the local authority should be the officer held responsible for the effective collection of rates;

(ii) any person found guilty of hindering the Secretary to a local authority from performing his duty in the enforcement of the law for the collection or recovery of rates should be guilty of an offence punishable with a fine of one thousand dollars or imprisonment for a term not exceeding 6 months, or both;

(iii) if no payment has been made by the end of six weeks of the date a rate becomes payable, the Secretary should proceed immediately to seize and sell movable properties belonging to the defaulter for realisation of the dues;

(iv) if action as in (iii) above would not realise an amount required to cover the dues or if it is not possible to seize movable properties of the owner on account that he is not in occupation of the property on which payment is overdue, the Secretary should immediately file in the necessary documents of charge on the property with the Registrar of Titles for the area; a notice to the effect should also be sent to the defaulter;

(v) all fees in connection with the registration of the charge, together with interest at 1% per month on the amount due from the date of registration of the charge, shall be deemed to be a charge on the property. Such charge shall have priority over any charge registered in respect of the property by any person or body other than the Government;

(vi) if at the expiry of one year of the registration of the charge the defaulter has still not settled his dues, the Secretary should move the Court for an Order for sale of the property in question.

1093. In conclusion, we believe that if local authorities are to discharge their increasing responsibilities and to provide an adequate standard of service to the local community, local authorities must be assured of a sufficient aggregate income to do so. They must be encouraged to exploit to the fullest the revenue resources at their disposal. Local authorities must be made to realise that if they want a bigger coat they must be prepared to provide the extra length of cloth. Enforcement procedures should be strengthened so that legal and other action is taken promptly in respect of defaulters. The gap between what is needed to render an accepted minimum standard of service and what local authorities are able to raise should be bridged by a well-defined system of grants, both general and specific, from the Federal and State Governments. Loan facilities, both long and short-term, should be made available on reasonable terms of interest and periods for loan repayment. There is need for looking on local government expenditure as part of national expenditure and to this end the financial needs and resources of local authorities must be kept under constant review by the Federal and State Governments and their needs and resources taken into full account when national development plans are drawn up. Finally, new duties and responsibilities should not be placed on local authorities without adequate financial resources to carry them out.

CHAPTER XIII

LEGISLATION

EXISTING LEGISLATION

1094. The Terms of Reference, *inter alia*, have directed us to consider "the adequacy or otherwise of the existing laws with regard to local authorities namely, the Municipal Ordinance (S.S. Cap. 133), the Town Boards Enactment (F.M.S. Cap. 137), the State of Kelantan Municipal Enactment, 1938, the Town Boards Enactment No. 118 (Johore), the Town Boards Enactment, Trengganu (Cap. 64), the Town Boards Enactment (F.M.S. Cap. 137) as made applicable to Perlis by the Town Boards (Application to Perlis Ordinance 1952), the Town Boards Enactment (F.M.S. Cap. 137) as made applicable to Kedah by F.M. Ordinance No. 52/56 and the Local Councils Ordinance, 1952".

1095. In the course of our enquiry very few criticisms were expressed on the existing legislation. This may be due to the fact that the majority of the councillors and the public were either not conversant with the local government laws or had little or no views to express. In one instance it was suggested that a new comprehensive legislation should be drafted to replace the several existing legislation and it was emphasised that in drafting the new law special consideration should be given to the area of control, the population pattern and the needs of the time. In another instance it was suggested that there should be separate laws for the Local Council areas, the Town Council areas and the Municipal areas. In yet another instance, the existing laws were criticised for not giving the local authorities adequate powers to decide on their own in respect of finance, loans and by-laws. It was said that the requirement of having to obtain prior sanctions from the State Authority in these matters was not consistent with the autonomous status of local auhorities. We were requested to recommend the abolition of such control. On the other hand, some State Governments felt that they did not have sufficient powers to enable them to exercise effective control over the local authorities. They cited the George Town City Council, the Town Council of Seremban and the Town Council of Johore Bahru as examples to substantiate their views that it was due to the State Governments not having adequate powers under the present laws to exercise control over local authorities that malpractices and maladministration had taken place. They therefore urged us to recommend more powers to be vested with the State Authority in order to prevent recurrence of this nature. In addition, there were some criticisms of specific provisions of one Ordinance or other.

1096. It may be recalled that different categories of local authorities in West Malaysia have been created and are operating under different legislation. Though references have been made to these legislation throughout this Report, it might be useful to state here the extent of areas to which each of these legislation is applicable.

1097. The Municipalities of George Town and the Fort and Town of Malacca operate solely under the Municipal Ordinance (S.S. Cap. 133) while those of Kuala Lumpur and Ipoh operate under certain provisions of the Municipal Ordinance and some provisions of the Town Boards Enactment (F.M.S. Cap. 137). In particular, the provisions relating to Rating and Town Planning of the Town Boards Enactment are applied by the Municipalities of Kuala Lumpur and Ipoh.

1098. The Town Councils and Town Boards in the States of Perak, Selangor, Negeri Sembilan and Pahang operate under the Town Boards Enactment (F.M.S. Cap. 137). This Enactment has also been extended to apply to the Town Councils in the States of Kedah and Perlis. The States of Johore, Trengganu and Kelantan have their own laws governing the administration of their respective Town Councils. The laws under which these Town Councils operate in these three States are almost similar to those in the Town Boards Enactment (F.M.S. Cap. 137).

1099. The Local Councils throughout West Malaysia operate under one legislation namely, the Local Councils Ordinance, No. 36 of 1952. In this sense, this piece of legislation can be said to be truly national in scope.

1100. All the above laws have been amended from time to time whenever found necessary. Some of the amendments have been made applicable to only one local authority. Obviously this is not a satisfactory state of affairs because it does not bring about uniformity in legislation. It tends to confuse the ratepayers who may have properties situated within the limits of different local authorities of similar category but subject to different legal provisions. There is therefore a need to examine the existing legislation in order to bring about uniformity.

PROPOSED LEGISLATION

1101. We have already made far reaching recommendations in the previous Chapters in regard to:

(i) Constitution and Structure;

(ii) Matters relating to Elective Representation;

(iii) Finance;

(iv) Administration;

(v) Services.

1102. We have simplified the future structure of the local government by recommending in Chapter IX the establishment of a single structural pattern of local authority co-terminous with the present administrative district or with part of a district where the district is too large. Within the single structural pattern we have recommended two types of local authorities namely, (*a*) the Municipality, and (*b*) the District Council. We have also recommended there that:

(i) there should be one comprehensive and uniform legislation governing the proposed local government throughout West Malaysia, and

(ii) it should be passed by Parliament after consultation with the State Governments, and

(iii) it should be styled as the "Local Government Act".

REPEAL OF LEGISLATION

1103. In the light of the recommendations for the constitutional and structural reform and the proposed comprehensive Local Government Act, we are therefore of the view that all the following legislation should be repealed:

(i) The Municipal Ordinance (S.S. Cap. 133);

(ii) The Town Boards Enactment (F.M.S. Cap. 137);

(iii) The State of Kelantan Municipal Enactment, 1938;

(iv) The Town Boards Enactment No. 118 (Johore);

(v) The Town Boards Enactment, Trengganu (Cap. 64);

(vi) The Town Boards Enactment (F.M.S. Cap. 137) as made applicable to Perlis by the Town Boards (Application to Perlis Ordinance, 1952);

(vii) The Town Boards Enactment (F.M.S. Cap. 137) as made applicable to Kedah by F.M. Ordinance No. 52/56;

(viii) The Local Councils Ordinance, 1952,

and be replaced by the proposed Local Government Act which should be made applicable throughout West Malaysia. We have already recommended that the proposed Local Government Act should be passed by Parliament and should be brought into force in all the States of West Malaysia within a prescribed period.

USUAL AND TECHNICAL PROVISIONS

1104. We are well aware that the Municipal Ordinance (S.S. Cap. 133) and the Town Boards Enactment (F.M.S. Cap. 137) have outstandingly stood the test of time for several decades and have generally and usefully served the needs of the changing time with relatively few amendments. We are therefore of the view that the provisions particularly those of the Municipal Ordinance (S.S. Cap. 133) and the Town Boards Enactment (F.M.S. Cap. 137) unrelated to or unaffected by the recommendations in this Report should be carefully analysed and incorporated into the proposed Local Government Act, provided the provisions to be incorporated are not in any way inconsistent with the intent and spirit of the recommendations of this Report. In both these legislation there are several provisions which any current local government legislation should have. These provisions which are of day-to-day or technical importance deal with a host of local government matters. The Municipal Ordinance provides for the following:

Contracts (Part II)
Municipal Property and Fund (Part III)
Municipal Budget (Part V)
Municipal Annual Report (Part V)
Audit of Accounts (Part V)
Municipal Statistics (Part V)
By-laws (Part V)
Rates and Taxes (Part VII).

Streets, Sewers and Buildings (Part VIII)—
- Streets
- Minor Regulations
- Obstructions
- Water Pipes and Lighting Apparatus
- Precautions against Accidents
- Scavenging
- Sewers
- Buildings, Open Spaces and Backlanes
- Ruinous and Deserted Buildings.

Water and Food (Part IX)—
- Water
- Public Markets
- Private Markets
- Inspection of places used for Sale of Food
- Slaughter-houses.

Sanitation and Prevention of Nuisances (Part X)—
- Dangerous and Offensive Trades
- Latrines, etc.
- Pollution of Streams
- Removal of Nightsoil, etc.
- Removal of Sewage
- Insanitary Premises
- Common Lodging Houses
- Nuisances
- Nuisance Notice
- Nuisance Order
- Obstructive Buildings.

Lighting and Miscellaneous Duties (Part XI)—
- Lighting
- Burial and Burning Places
- Weights and Measures.

Prevention and Extinction of Fires (Part XII)—
- Fire Inquests.

Non-Motor Vehicles (Part XIII)—
- Carts and Trishaws.

Reconstruction of Unhealthy Areas and Buildings (Part XIV).

Loans (Part XV)—
- Redemption of Debt
- Sinking Funds
- Register and Rights of Holders of Securities for Loans
- Remedies for Default in Payment of Loans.

Supplementary (Part XVI).

1105. In the case of the Town Boards Enactment (F.M.S. Cap. 137) the following provisions should be considered for incorporation into the proposed Local Government Act:

Duties and Powers (Part III)
Rating (Part IV)
Prevention and Extinction of Fires (Part V)
Obstruction and Nuisances (Part VI)
Control of Street-stalls and Hawkers (Part VIA)
Streets and Buildings (Part VII)
Town Improvement (Part VIII)
Town Planning (Part IX)
Collection of Rates by Instalments (Part XI).

1106. By culling out the above items from the two legislation referred to we have merely highlighted the usual provisions that a local government legislation should contain. We are therefore of the view that if this Report is accepted the Minister for Local Government and Housing should appoint a Drafting Committee which should be given the task of drafting the Bill in terms of the approved Report with power to incorporate such of the provisions as are contained in the Municipal Ordinance (S.S. Cap 133) and the Town Boards Enactment (F.M.S. Cap. 137) which are not inconsistent with our recommendations as finally accepted.

1107. In incorporating into the Bill the usual provisions as highlighted above, the Drafting Committee may look into the current local government legislation of Commonwealth countries such as England, Australia, Canada and India, and also into the legislation of few other developed and developing countries. Reference to such international sources will no doubt provide the Drafting Committee with a useful insight into the adequacy or otherwise of the technical and usual provisions of our legislation for the purpose of bringing them up-to-date. In making reference to international legislation the Drafting Committee should always keep in mind the local conditions which have influenced us to make our recommendations. Any improvement to the existing usual provisions must not be inconsistent with the spirit and intent of the recommendations of this Report as adopted and must also be in keeping with the circumstances of the country. In other words, the Drafting Committee should take care not to indulge in an inquiry of its own or to depart from the main stream of the reasons and the recommendations of this Report.

1108. At present local government elections are governed by the Local Government Elections Act, 1960. We are of the view that this legislation should be repealed and such of its provisions as are not inconsistent with the recommendations of this Report should be incorporated into the proposed Local Government Act as it is not necessary to have a separate legislation governing local government elections. Likewise, the Local Authorities (Conditions of Service) Act, 1964, should be repealed and the provisions consistent with the recommendations of this Report should be incorporated into the proposed Local Government Act.

1109. We therefore recommend that:

(i) the legislation referred to in paragraph 1108 above should be repealed and should be replaced by the proposed Local Government Act;

(ii) the provisions of the Municipal Ordinance (S.S. Cap. 133) and the Town Boards Enactment (F.M.S. Cap. 137) unrelated to and unaffected by the recommendations of this Report should be carefully analysed and incorporated into the proposed Local Government Act, provided the provisions to be incorporated are not in any way inconsistent with the spirit and intent of the recommendations of this Report;

(iii) the usual and technical provisions of the Municipal Ordinance (S.S. Cap. 133) and the Town Boards Enactment (F.M.S. Cap. 137) enumerated in paragraphs 1104 and 1105 should be incorporated into the proposed Local Government Act to the extent that they are not inconsistent with the recommendations of this Report;

(iv) the Minister for Local Government and Housing should appoint a Drafting Committee to draft the proposed Local Government Act;

(v) in drafting the usual and technical provisions of the proposed Local Government Act, the Drafting Committee may look into the legislation of Commonwealth countries such as India, and also into those of few other developed countries for the purpose of improving the usual and technical provisions of the Municipal Ordinance and Town Boards Enactment and bringing them up-to-date in making them effective;

(vi) the Local Government Elections Act, 1960, and the Local Authorities (Conditions of Service) Act, 1964, should be repealed and such of their provisions inconsistent with the recommendations of this Report should be incorporated into the proposed Local Government Act.

BY-LAWS

1110. A local authority is empowered to make by-laws relating to the functions enumerated in the laws under which it operates. These by-laws prescribe procedure, extent of control, supervision, maintenance and repair, fees to be charged and other provisions necessary for the proper conduct of its business. A by-law has effect only after it has been confirmed by the State Authority and such confirmation has been published in the Government *Gazette*.

1111. The following are the standard by-laws adopted by the more advanced local authorities in West Malaysia:

(i) Buildings.
(ii) The Control of Streets and Open Spaces.
(iii) Sanitation of Public and Private Lands and Houses.
(iv) Street Trading.
(v) Control and Sale of Fresh Provisions.
(vi) Control and Supervision of Bakeries, Dairies, Common Lodging Houses, Eating Houses, Coffee Shops and Laundries.
(vii) Prevention and abatement of Nuisances and the Regulation and Prohibition of Dangerous Unhealthy or Offensive Trades or Occupations and Garages.
(viii) Control of Theatres and other Places of Public Resort.
(ix) Advertisement and Sign-Boards.
(x) Public Bathing Places.
(xi) Calcium Carbide Storage.
(xii) Control and Maintenance of Public Parks.
(xiii) Control of Parking Places.
(xiv) Pedestrian Crossings.
(xv) Licensing of Dogs.
(xvi) Itinerant Hawkers.
(xvii) Timber Store and Woodworking.
(xviii) Enquiry and Search Fees.
(xix) Control of Tyre Retreading and Vulcanising Works.

(xx) Sewerage and Drainage.

(xxi) Private Sewage Plant Construction.

(xxii) Barber Shops and Hairdressers.

(xxiii) Massage Establishments.

(xxiv) Metered Parking.

1112. We observe that two other by-laws have recently been introduced by the Municipality of the Federal Capital. They are, the "Clearance of Squatters" and the "Cattle By-laws". We are of the view that these by-laws should also be adopted by other local authorities to enable them to deal with squatter problems and cattle nuisance expeditiously and effectively in their areas.

1113. We were informed that some three years ago the Ministry of Works, Posts and Telecommunications set up a Committee to draft model building by-laws for adoption by local authorities throughout the country, and that the Committee is in an advanced stage of completing its task. We are satisfied that there exists an urgent need for the revision of the existing building by-laws which are not only out-of-date in most of the provisions but also have caused confusion among prospective developers and professionals in the building industry. All provisions of the existing by-laws which are unduly restrictive and not in keeping with modern requirements should be deleted and more up-to-date uniform by-laws should be drafted to meet modern needs and accelerate the already rapid building development now taking place in the country. We therefore consider the appointment of the Committee referred to above as a step in the right direction and it is hoped that the Committee would complete its task with the minimum of delay. Particularly since we have recommend local authorities to be set up on the basis of existing district boundaries, every square inch of ground in the country would now be covered by a local authority, hence the new by-laws should cover every possible type of buildings ranging from the small temporary building to the very large multi-storeyed permanent buildings. The draft by-laws should be so designed so that each local authority can apply whatever portion of the by-laws to its area in accordance with the stage of development of that particular area.

1114. As in the case of the present local authority legislation, there is no uniformity in the existing by-laws. We consider it necessary that standard by-laws should be framed for all local authorities in the country and they should be flexibly drawn to meet the needs of local authorities at different stages of growth and the needs of the time.

1115. The Federal Commissioner of Local Government should be charged with the responsibility of preparing such model by-laws as may be necessary under the proposed Local Government Act. As recommended earlier, the Ministry of Local Government and Housing should engage the services of a lawyer to assist the Federal Commissioner of Local Government in preparing model by-laws and generally in attending to the legal matters of local government.

1116. We therefore recommend that:

(i) the Federal Commissioner of Local Government should be charged with the responsibility of drafting such model by-laws as would be necessary under the proposed Local Government Act;

(ii) the Ministry of Local Government and Housing should engage the services of a lawyer to assist the Federal Commissioner of Local Government to prepare model by-laws for adoption by local authorities throughout the country.

RATEABLE AND TAXABLE HOLDINGS

1117. In view of our recommendations for the establishment of a local authority covering the whole or part of a district, it is necessary that the proposed Local Government Act should contain clear definition as to rateable holdings and taxable properties. Since every inch of a district will come within the jurisdiction of a local authority it is justifiable that every holding or every land should be subjected to local government levies. Imposition of these levies should not be made conditional upon the rendering of services. We have already recommended that a house-holder in a district should at least contribute a sum of $1 if he does not receive any service from his local authority (*See* para 678). This requirement is in respect of a house-holder who does not own the land on which his house is erected as in the case of a person who has built a house on a State land under a temporary occupation licence.

1118. It is a common feature in West Malaysia for many persons to build temporary houses on State lands under temporary occupation licences or on private lands with the consent of the landlords. In the case of a house lawfully built on State land within a local authority, the house owner or occupier is required to pay rates on his house. In the case of a house built on private land within a local authority, either the house owner as occupier or the owner of the land itself is required to pay the rates. In this respect the provisions of the Town Boards Enactment (F.M.S. Cap. 137) are clearer than the Municipal Ordinance (S.S. Cap. 133).

1119. We are of the view that hereafter holdings should be classified in the following manner:

(*a*) land with or without buildings in gazetted urban areas;

(*b*) land with or without buildings in gazetted village areas.

For the purpose of valuing a holding, every local authority with the approval of the State Authority, should gazette areas as Gazetted Urban Areas and Gazetted Village Areas.

1120. In determining an area as urban, a local authority should apply the following criteria:

(*a*) a minimum population of 2,000 persons;

(*b*) water and electricity supply;

(*c*) reasonable shopping facilities;

(*d*) the existence of a police station;

(*e*) communication facilities;

(*f*) schools;

(*g*) medical, health and sanitation services;

(*h*) post office and other government facilities;

(*i*) general social amenities.

1121. On the other hand, an area to be gazetted as a village area should be determined by applying the following criteria:

(*a*) a community living in a compact area;

(*b*) the existence of at least 10 shop houses;

(*c*) the existence of some of the attributes of an urban area.

1122. We consider it necessary to value the holdings in gazetted urban and village areas for the purpose of rating. It is possible that within an urban or village area there may be sectors which may not receive all the services of a local authority. There may be also certain sectors which are more valuable than others. There may be, for instance, Malay reservation land, the value of which may be artificially restricted. All these circumstances should be taken into consideration in fixing the level of rates in accordance with the extent of services rendered and the character of the area. This calls for the imposition of differential rates in different areas. A local authority should therefore apply the principle of differential rates not merely in different areas within its district but also within sectors of a Gazetted Urban or Village Area. The proposed Local Government Act should clearly provide for the levy of differential rates. Though Section 27 of the Town Boards Enactment adequately provides for this, the same cannot be said of Section 59 of the Municipal Ordinance. As this is a matter of financial commitment for the public and an important revenue resource for the local authority, the future Act should without ambiguity provide for the imposition of differential rates.

1123. Holdings outside the urban and village areas need not be valued for rating purposes but every such holding, whether or not it has a building or buildings erected thereon, should be subjected to a Property Tax as follows:

(*a*) every agricultural holding of above 10 acres should be required to pay an annual Property Tax on an acreage basis. The tax payable should be not less than $1 and not more than $5 per acre per year. Agricultural holdings of 10 acres and below should be required to pay not less than $1 and not more than $2 per acre or part thereof per year;

(*b*) every mining holding should be required to pay a Property Tax of not less than $1 and not more than $5 per acre or part thereof per year.

1124. Every local authority should be empowered to fix its own level of tax not below the minimum and not exceeding the maximum levy as specified in the preceding paragraph. If an agricultural holding is on the periphery of or close to a gazetted urban area, its acreage tax may be levied at a higher level than an agricultural holding situate a considerable distance away from an urban area. Obviously an agricultural or a mining holding and its occupants close to an urban area will be in a position to derive more benefits from the urban area than a similar holding situate at some distance away from an urban area. Payment of Property Tax should not be on the premise of actual services rendered but rather on the premise that a holding is not an isolated unit and that its value has some connection with the general development of the district as a whole.

1125. In view of the foregoing, it is necessary to redefine the term "holding" so as to enable the levy of rate in gazetted urban and village areas and the levy of Property Tax for agricultural and mining holdings outside such gazetted areas.

1126. We therefore recommend that:

(i) every local authority should by gazette cause to be declared—

(a) Gazetted Urban Areas and

(b) Gazetted Village Areas.

(ii) holdings in gazetted urban and village areas should be rated on the basis of their annual values;

(iii) areas outside gazetted urban and village areas should be categorised into—

(a) Agricultural Holdings and

(b) Mining Holdings.

(iv) a tax to be styled as Property Tax should be levied on an acreage basis in respect of agricultural and mining holdings as follows—

(a) an agricultural holding of above 10 acres should be required to pay a Property Tax at a level of not less than $1 but not more than $5 per acre or part thereof per year;

(b) an agricultural holding of below 10 acres should be required to pay a Property Tax at a level not less than $1 but not more than $2 per acre or part thereof per year;

(c) a mining holding should be required to pay a Property Tax at a level not less than $1 and not more than $5 per acre per year.

(v) a local authority should be empowered to fix at its discretion the level of the Property Tax to be levied in any year subject to the aforesaid minimum and maximum amounts;

(vi) in fixing the Property Tax per acre at a level between the minimum and the maximum amounts, a local authority should take into consideration the proximate situation of an agricultural or mining holding to an urban area and fix the tax accordingly;

(vii) an arrear in respect of Property Tax should be recoverable in the same manner provided for recovery of rates.

VALUATION OF HOLDINGS

1127. As explained earlier in the Chapter on Finance, it was the lack of trained valuation officers in the local authorities and the absence of a statutory provision to require local authorities to revalue their properties at specified intervals that accounted for the non-revaluation of rateable properties in the past several years and the lack of uniformity in the valuation of properties both between local authorities and within local authorities. Consequently, not only were rates not imposed on the basis of realistic and up-to-date annual values but also considerable revenues were being lost by local authorities thereby. The proposed Valuation for Rating Bill, as mentioned earlier, apart from creating a central valuation authority solely responsible for the valuation and preparation of assessment lists of properties within local authority areas would also ensure a revaluation of properties every five years.

1128. Other than being informed of the objectives of the proposed Valuation for Rating Bill, we did not have the opportunity of scrutinising the Bill. Hence, we are unable to comment on the provisions of the Draft Bill itself. But we consider it important to state

here that the proposed Bill should, among others, seek to standardise two important concepts connected with valuation. One is the concept of rateable holding and the other is the concept of annual value.

1129. What is a holding that should be assessed? 'Holding' is defined in the Town Boards Enactment but not in the Municipal Ordinance. Like most definitions, this too is not comprehensive in its scope. For the purpose of rateable valuation we consider that a holding should be within a Gazetted Urban or Village Area and should fall under any of the following categories:

(*a*) any land, with or without a building thereon which is held under a single document of title;

(*b*) adjoined vacant lands owned by the same person or persons and held under the same class of issue document of title. In this case there should be a joint valuation. If, however, there are separate buildings erected on such lands and are used for separate purposes, each of such buildings should be separately valued, even though they belong to the same person or persons and held under one issue document of title;

(*c*) adjoined lands owned by the same person or persons but held under different class of issue document of titles should be valued separately;

(*d*) lands not adjoined, or separated by any street, railway or waterway owned by the same person or persons or separately owned, should be valued separately;

(*e*) where a building is sub-divided into parcels with each of such parcels having its own subsidiary title, each such parcel should be valued as a separate holding;

(*f*) where a building has several floors without being sub-divided into parcels under separate subsidiary titles, then the whole building should be valued as one common holding.

1130. In the case of the concept of annual value we are of the view that the definition contained in the Town Boards Enactment is generally satisfactory and that it should be retained with a slight modification as contained in the definition of annual value in the Municipal Ordinance. The definition should make the landlord liable for the payment of the expenses of repair apart from ordinary wear and tear, insurance maintenance or upkeep and all public rates and taxes. The law should also expressly provide that in determining the annual value of a building within the provisions of the Control of Rent Act, 1966, no regard should be paid to 'fair rent' imposed by the said Act or to any restrictions of any written law in force relating to control of rents. Annual value should only be based on the estimated gross annual rent at which the holding might reasonably be expected to let from year to year, subject to the proviso contained in the Town Boards Enactment and the aforesaid provisos in respect of landlord's liability and the controlled rent. It should also be provided that where there is an increase in the rate payable in respect of any holding subject to rent control, such increase should be paid by the tenant of such holding.

1131. In West Malaysia, valuation of rateable holdings has been pegged on to annual value except in the State of Johore where it is based on the improved value of the holdings. For the sake of uniformity we are of the view that all rateable holdings in West Malaysia should be valued on the basis of annual value.

1132. Though Section 59 of the Town Boards Enactment makes provision for the refund or postponement of payment or remission of rate in respect of a building that is unoccupied, the Section is not explicit in regard to a part of a building that remains vacant. In view of the fact that many multi-storeyed buildings are erected throughout the country, it is possible that parts of multi-storeyed buildings might be unoccupied from time to time or for long periods. Equity therefore demands that refund or postponement of payment or remission of rate should be made by the local authority in respect of parts of a building that remain vacant. It is important that the law should be clear as to what it means by part of a building. The following, in our view, should be regarded as part of a building:

(*a*) a semi-detached ground floor building;

(*b*) any floor of a building that is self-contained with toilet and cooking facilities, with a separate access and which may be let separately for human habitation;

(*c*) any floor of a building with separate means of access;

(*d*) any floor space of a building not less than 1,000 square feet which may be separately let as an office, factory or godown or other similar use;

(*e*) any floor space of not less than 600 square feet which may be separately let as a shop for the sale of goods.

1133. As mentioned earlier the proposed Valuation for Rating Bill provides for revaluation once in every five years in a local authority. It is of course necessary that the first valuation should be completed before the local authorities are established under the proposed Local Government Act, so that a local authority can launch off with an up-to-date valuation list. If for any reason the valuation cannot be completed until after a local authority has been established, a contingency provision should be made in the law enabling the local authority to carry out a provisional valuation of its own until the valuation list under the proposed Bill is completed.

1134. At present, any person who is dissatified with the decision of the local authority in respect of the annual valuation of his holding is, under Section 44 (iv) of the Town Boards Enactment, given the right to appeal to the High Court, the decision of which is final and conclusive. Section 68 (1) of the Municipal Ordinance, however, is silent on the point of the conclusive and final nature of the High Court's decision. We are of the view that an aggrieved person should be accorded the right of having a final appeal to the Federal Court whose decision should be made final and conclusive. It is only fair that this right should be accorded since it would not be uncommon for a person to pay a large amount as rate and if he wants to have it challenged in the Federal Court he should have the privilege to do so. Again a decision of the Federal Court would no doubt provide stable legal precedents for the High Courts in the country to follow.

1135. **We therefore recommend that:**

(i) a rateable holding should be clearly defined in the proposed Valuation for Rating Bill as stated in paragraph 1129;

(ii) the concept of annual value should be made uniform throughout West Malaysia;

(iii) the definition contained in the Town Boards Enactment (F.M.S. Cap. 137) should be retained with the express provisos stated in paragraph 1130;

(iv) refund or postponement of payment or remission of rate in respect of a part of a building as stated in paragraph 1132 should be expressly provided in the proposed Local Government Act;

(v) provision should be made in the proposed Local Government Act enabling a local authority to carry out provisional valuation of its own until a valuation list is prepared by the machinery established under the proposed Valuation for Rating Bill;

(vi) any person dissatisfied with the valuation of his holding should have the right of appeal against the decision of the High Court to the Federal Court, whose decision should be final and conclusive.

DEVELOPMENT PLANNING

1136. Part IX of the Town Boards Enactment (F.M.S. Cap. 137) and parallel provisions in the Municipal Ordinance on the subject of town planning were severely criticised in several places. It was pointed out that these provisions were framed on the English 1909 and 1929 Town Planning Acts and that though amendments had been made from time to time they were inadequate to meet the needs of a fast developing country such as West Malaysia and ensure planned development. It was not only a question of planning town areas but also of planning the rural areas as well. It was stated that prospective developers had been delayed and even denied the chance to develop their lands because local authorities had no approved lay-out plans for their areas. What was required was a major and separate legislation to deal with all matters relating to planning whilst control of buildings should be left to the local authorities.

1137. We noted that no local authority has a development or what is popularly known as a "master plan" for its entire local authority area. It was explained to us that when a development plan was gazetted, local authorities would be compelled to acquire compulsorily all portions of the area zoned for public purposes and pay heavy compensations which would be beyond the means of any local authority. Hence, whatever planning which was hitherto prepared and enforced was on a piecemeal basis.

1138. We recognise that town planning is not a matter of building regulations and by-law control but pre-eminently concerned with land and building uses and the utilization of all physical assets of an area and its public services. For such a purpose it is essential that there should be a separate legislation under which development plans can be drawn up and gazetted.

1139. In view of our recommendation for the establishment of a district local authority, it is of great importance that every proposed local authority should prepare three draft development plans, namely:

(*a*) A District Development Plan;

(*b*) An Urban Development Plan;

(*c*) A Village Development Plan.

District Development Plan

1140. A District Development Plan should broadly show the projected land use in the district outside Gazetted Urban and Village Areas for purposes such as Federal or State or district roads, land settlements, drainage and irrigation, parks, industrial and

agricultural developments and the like. Though many of these projects would be carried out by Federal or State Agencies, a District Development Plan should clearly show all these projects so that the people in a district may know what is being proposed. The District Development Plan should also show such of the countryside areas as are not intended to be developed within the foreseeable future.

Urban Development Plan

1141. An Urban Development Plan should show the projected land use in a Gazetted Urban Area in adequate detail. The plan should show, for instance:

(*a*) classified residential areas;

(*b*) industrial areas;

(*c*) commercial areas;

(*d*) the areas where schools, hospitals, markets and other public buildings will be sited;

(*e*) all major and minor roads of the urban area;

(*f*) playing fields and parks.

Village Development Plan

1142. A Village Development Plan should show in detail the land use in the village for residential and commercial purposes, schools and other public buildings. The Plan should be so prepared as to enable a village area to have the necessary potentials for an easy transformation into an urban area. In other words, the truism that every village is a potential urban area should not be overlooked in drawing the plan.

1143. Every Plan, whether for a district, urban or village area should have a "programme map" showing which area ought to be developed first and which would be developed in the second or third phase.

1144. It is important that a Development Plan should be prepared with public participation. How is this to be effected? Clearly, the physical preparation of a Plan should be the task of a qualified physical planner. But in preparing it he should initially seek the views of the councillors of a local authority. Conception of a Plan should not be the board-room preserve of an expert. Expertise must not be divorced from common sense and popular aspirations. We are therefore of the view that the following machinery should be created in preparing the Plan, whether for a district, urban or village area:

(i) the State Planning Officer of a State should in consultation with the local authority concerned prepare the District, Urban and Village Development Plans. By consultation is meant that a State Planning Officer should seek the views of the councillors, the Secretary and the principal officers of a local authority before he prepares the Plans;

(ii) the Plans having been prepared should be tabled at a meeting of the Council of the local authority for its approval;

(iii) after the approval by the Council the Plans should be posted up in the local authority's main office and other local offices, if any, for the views of the public;

(iv) members of the public who wish to make objections to any part or parts of the Plans should be heard by a Committee headed by the State Planning Officer. Other members of the Committee should consist of the following: Secretary

to the authority, the Chairman of the Management Board, the Chairman of the Planning Committee, if any, of the authority and one other member of the Council;

(v) any objections made and the Committee's views on each of the objections should be recorded and forwarded to the State Authority;

(vi) the State Authority should consider the Plans, the objections raised thereto and the views of the Committee on the objections and record its own conclusions thereon. The State Authority should then forward the same to the National Development Planning Committee;

(vii) if no comment is made by the National Development Planning Committee within three months from the date the Plans were received, the State Authority should deem the Plans as having been accepted by the National Development Planning Committee. If, however, any views thereon are expressed by the National Development Planning Committee, such views should be given due consideration by the State Authority in giving its approval to the Plans;

(viii) when the Plans are approved by the State Authority, they should be *gazetted* whereupon the Plans should come into force.

1145. We consider that the State Planning Officer should play a key role in the preparation of these Plans. In drawing his Plans he should not merely pay regard to local feelings but also the interests of the district as a whole and the interests of the adjoining districts where necessary. He should have regional and district perspective at the same time. He should be assisted by assistant planners and adequate staff. His work would essentially be physical or land use planning as distinct from sectoral planning for specific economic or social developments. We observe that hitherto the role of the physical planners has not been effectively employed in drawing up sectoral development plans. As physical or regional planning and sectoral planning are so closely inter-related, we are of the view that the physical planners at the State and Federal levels should be closely associated with the preparation of sectoral planning so that they will have a full appreciation of the projected land use at urban and rural levels.

1146. It has to be remembered that a physical development plan has to be flexible and not static. It should be reviewed at least once every five years to ascertain whether adjustments are required. Any gazetted Development Plan may very well affect the value of a particular plot of land. Even so, by itself such a Plan should have little legal effect, apart from certain exceptions, e.g. lands earmarked for compulsory acquisition. All that a Plan should indicate in general terms are the kind of developments envisaged for particular areas. This should not mean that merely because a Plan shows that a particular area is zoned for a particular purpose, a land owner can as of right proceed with the designated development without express planning permission.

1147. In this context it is important that the word "development" should be given a flexible definition. It may be noted that Section 12 (1) of the Town and Country Planning Act of England defines "development" to mean "the carrying out of building, engineering, mining or other operations on, over or under land or the making of any material change in the use of any buildings on other land". Some such definition should be preferred in any legislation that may be introduced in regard to regional planning. We are of the view that any such future legislation may simply be styled as the Regional Planning Act rather than as a Town and Country Planning Act. In any such legislation

there should be provisions relating to regional development of the State, district, urban and village units. Under such legislation the State Planning Officer should be empowered to prepare the various Development Plans as stated above.

1148. When the District, Urban and Village Plans are approved, developers should be allowed to apply for permission to carry out developments. In considering an application for permission to carry out development in a particular area the planning officer of the local authority should pay regard to the provisions of the Development Plan in question and to any other material and relevant considerations. It should be made clear that in considering an application a planning officer should not pay regard to the Development Plan alone to the exclusion of other considerations. No doubt the provisions of the Plan would be of considerable importance in evaluating an application but the Plan should by no means be made conclusive in the granting or refusing of an application. An intending developer should not look at the Development Plan and come to the conclusion that he could proceed to develop as indicated in the Plan without the permission of the local authority concerned. The justification for the prior permission is that a Development Plan is generally drawn in broad terms and that it would not provide in great detail the specific use of a small parcel of land. As such, a planning officer would not only be required to consider the mere use of a land but also questions such as general design, outward appearance, road access, amenities of the neighbourhood and the like in approving an application for development.

1149. If a person develops his land contrary to the conditions of a planning permission granted, the local authority concerned should be empowered to issue an enforcement notice requiring the developer to take steps within a prescribed time to discontinue the unlawful use of the land and comply with the conditions of the permission granted and may also institute legal proceedings against the developer for breach of the conditions. If, on the other hand, a person develops his land without first obtaining a planning permission the local authority concerned should be empowered to demolish the building so erected, to charge the developer for all the costs involved in demolishing the building and to institute legal proceedings against the developer for building without planning permission. In addition, the local authority should be empowered at its discretion to take default action at the expense of the offender with provisions to have the expense incurred thereby charged against the property as in the case of recovery of arrears of rates.

1150. Where a planning permission is refused or is subjected to unreasonable conditions or is not approved within the prescribed period, the aggrieved applicant should have the right to apply to the Local Government Tribunal as recommended in paragraph 846.

1151. We therefore recommend that:

(i) every local authority should have three Development Plans, namely—

(a) A District Development Plan;

(b) An Urban Development Plan;

(c) A Village Development Plan.

(ii) a District Development Plan should broadly show the projected land use in the areas of a district outside the Gazetted Urban and Village Areas;

(iii) an Urban Development Plan should show in adequate detail the projected land use in a Gazetted Urban Area;

(iv) a Village Development Plan should show in adequate detail the projected land use in a Gazetted Village Area;

(v) a Village Development Plan should be so drawn as to enable a village to have the potentials for an orderly transformation into an urban area;

(vi) every Development Plan should have a programme map showing the priority of development, i.e., which area ought to be developed first and which would be developed in the second or third phase;

(vii) the procedure for the preparation and approval of Development Plans should be as under—

(a) every Development Plan should be prepared by the State Planning Officer in consultation with the local authority thereby providing adequate public participation;

(b) the Plans having been prepared, should be tabled at a meeting of the Council of the local authority for its approval;

(c) after the approval of the Plans by the Council of the local authority they should be posted up in the local authority's main office and other local offices, if any, for the views of the public;

(d) members of the public who wish to make objections to any part or parts of the Plans should be heard by a Committee headed by the State Planning Officer. Other members of the Committee should consist of the following: Secretary to the local authority, the Chairman of the Management Board, the Chairman of the Planning Committee, if any, of the local authority and one other member of the Council;

(e) any objections made and the Committee's conclusions on each of the objections should be recorded and forwarded to the State Authority;

(f) the State Authority should consider the Plans and the objections together with the views of the Committee thereon and record its own conclusions and forward the same to the National Development Planning Committee;

(g) if no comment is made by the National Development Planning Committee within three months from the date the Plans were received, the State Authority should deem the Plans as having been accepted by the National Development Planning Committee. If, however, any views thereon are expressed by the National Development Planning Committee, such views should be given due consideration by the State Authority in approving the Plans;

(h) when the Plans are approved by the State Authority, they should be gazetted whereupon the Plans should come into force;

(i) a copy of every approved Plan should be sent by the State Authority to the National Development Planning Committee and the Ministry of Local Government and Housing.

(viii) physical planners should be closely associated with the preparation of sectoral planning so that they will have a full appreciation of the projected land use at urban and rural levels;

(ix) a physical Development Plan should be prepared in a flexible manner and should be reviewed once in every five years;

(x) notwithstanding a Gazetted Development Plan, every developer should first obtain a planning permission in respect of his proposed development;

(xi) any law relating to physical development should be styled as the Regional Planning Act which should have provisions relating to regional development of every State, district, urban and village units in the country;

(xii) any proposed legislation on regional planning should contain a broad flexible definition of the term "development";

(xiii) in considering an application for permission to develop, a local authority should not only pay regard to the Development Plan concerned but also pay regard to other material and relevant considerations;

(xiv) if a person develops his land contrary to the conditions of a planning permission granted, the local authority concerned should be empowered to issue an enforcement notice requiring the developer to take steps within a prescribed time to discontinue the unlawful use of the land and comply with the conditions of the permission granted and may also institute legal proceedings against the developer for breach of the conditions. If, on the other hand, a person develops his land without first obtaining a planning permission the local authority concerned should be empowered to demolish the building so erected, to charge the developer for all the costs involved in demolishing the building and to institute legal proceedings against the developer for building without planning permission. A local authority should also be empowered at its discretion to take default action at the expense of the offender without provisions that the expense incurred thereby be charged against the property as in the case of recovery of arrears of rates;

(xv) when a planning permission is refused or is subjected to unreasonable conditions or is not approved within the prescribed period, the aggrieved applicant should have the right to apply for remedy to the Local Government Tribunal recommended in paragraph 846.

COMPULSORY ACQUISITION

1152. It is universally recognised that private lands may be compulsorily acquired for public purposes. There is not, however, a universal pattern as regards firstly the principle of payment of compensation or the quantum of compensation for such acquisition.

1153. Article 13 (1) of the Malaysian Constitution states that "No person shall be deprived of property save in accordance with law". Article 13 (2) state that "No law shall provide for the compulsory acquisition or use of property without adequate compensation". It may be noted that the Article does not define property nor is it defined elsewhere in the Constitution. This means that every type of property is covered by the principle of compensation as enunciated. The laws of some countries provide for "reasonable" or "fair" compensation but our Constitution has preferred the term of "adequate" compensation.

1154. In acquiring lands for development for public purpose the main problem is to meet the liability of "adequate compensation". What is the yardstick of "adequate compensation"? It is generally argued that it should reflect the current market value of the property as on the date of the intention to acquire. It is common knowledge that most local authorities will not be in a financial position to pay adequate compensation for lands acquired by them for large scale urban renewal as the amount involved would be very considerable. In urban renewal schemes we are of the view that the Federal Government or the State Government should provide loan facilities to a local authority to acquire the lands needed. With loans received, the local authority should pay the compensation, redevelop the land, sell it to the public and repay the loan from monies realised.

1155. There are innumerable rows of old, unsightly and almost dilapidated buildings in several towns that need to be demolished and redeveloped. Left to themselves the owners of such buildings may not have the means or the inclination to redevelop their properties. There may be a single house protruding along a busy road, thereby obstructing the widening of the road much to the inconvenience of the traffic and the users of the road. Yet, the owner may not have the means or the desire to pull down the house and redevelop it. He may be simply waiting for the land price to appreciate. In such cases a local authority should be empowered to acquire the properties and redevelop them on a commercial basis. By this process large scale urban renewals could be undertaken in an orderly and sophisticated manner so as to create adaptable basis for future urban problems as and when they arise.

1156. There are certain provisions of the Town Boards Enactment which are in conflict with Article 13 of the Constitution or not very clear as to the principle of paying compensation and the extent of the compensation payable. For instance, Sections 95 to 99, 131 to 134 and 147 of the Town Boards Enactment (F.M.S. Cap. 137) do not appear to be consistent with Article 13 of the Constitution. In the proposed Local Government Act any acquisition of property and the payment of compensation should be drafted consistent with the constitutional provision.

1157. We therefore recommend that:

(i) loan facilities should be made available by the State or Federal Government to local authorities to acquire land and enable payment of adequate compensation for purposes of urban renewal;

(ii) lands so acquired should be redeveloped by local authorities on a commercial basis and such redeveloped properties should be sold and the proceeds thereof should be used to repay the loans;

(iii) the proposed Local Government Act should contain clear provisions as regards acquisition of lands by local authorities and payment of compensation therefor consistent with Article 13 (1) of the Constitution.

PURPOSES FOR WHICH LOCAL AUTHORITY FUNDS MAY BE EXPENDED

1158. Section 29 of the Municipal Ordinance (S.S. Cap. 133) and Section 12A (3) of the Town Boards Enactment (F.M.S. Cap. 137) enumerate the purposes for which the funds of local authorities as governed by these two legislation may be expended. We

are of the view that these purposes should be suitably incorporated together with the purposes contained in the recommendations of this Report provided they are not inconsistent with the recommendations of this Report.

1159. We therefore recommend that the provisions of Section 29 of the Municipal Ordinance (S.S. Cap. 133) and Section 12A (3) of the Town Boards Enactment (F.M.S. Cap. 137) should be suitably incorporated into the proposed Local Government Act provided that they are not inconsistent with the recommendations of this Report.

PURPOSES FOR WHICH POWERS MAY BE EXERCISED

1160. Section 15 of the Town Boards Enactment enumerates the purposes for which powers may be exercised by the local authorities as governed by this Enactment. Section 58 of the Municipal Ordinance enumerates the purposes for which by-laws may be made. Both the above provisions should be suitably drafted into the proposed Local Government Act provided that no such provision is inconsistent with the recommendations of this Report.

1161. We therefore recommend that the provisions of Section 15 of the Town Boards Enactment (F.M.S. Cap. 137) and Section 58 of the Municipal Ordinance (S.S. Cap. 133) should be suitably drafted into the proposed Local Government Act provided that they are not inconsistent with the recommendations of this Report.

POWER TO COMPOUND OFFENCES

1162. Section 18 of the Town Boards Enactment (F.M.S. Cap. 137) which gives power to the local authorities to compound offences committed against the provisions of the Enactment or any of the rules made thereunder should be retained in the proposed Local Government Act. With the exception of those local authorities that operate under the above Enactment and the Kelantan Municipal Enactment, the rest of the local authorities do not have the power to compound offences. The Municipalities of Ipoh and the Federal Capital unlike those of Penang and Malacca, however, have the power to compound offences as Section 18 of the Town Boards Enactment has been extended to apply to them. We are of the view that all the future local authorities should have the power to compound offences and that this power should be vested in the Secretary to the local authority. We are further of the view that if at all such a provision is to serve as an effective deterrent, the present maximum compoundable fine of $10 should be increased to $50.

1163. We therefore recommend that:

(i) all local authorities should have the power to compound offences committed against the provisions of the proposed Local Government Act or any of the rules or regulations made thereunder;

(ii) the power to compound offences should be vested in the Secretary to the local authority;

(iii) the maximum compoundable fine should be raised to $50.

FIRE SERVICES

1164. Although we have earlier in this Chapter recommended that Part V of the Town Boards Enactment (F.M.S. Cap. 137) and Part XII of the Municipal Ordinance (S.S. Cap. 133) namely that on Prevention and Extinction of Fires should be incorporated into the proposed Local Government Act, we would nevertheless like to emphasise that the retention of these provisions in the future local government legislation should not be construed to mean that local authorities should be responsible for the maintenance of fire services and that local authority funds are to be expended for the purpose. Fire services are under the Constitution the responsibility of the individual State Governments and as such all expenses involved in maintaining an efficient fire service should be borne by the State Governments. Although some of the major local authorities have for some time now been running fire services in their areas, it is nevertheless not proper for the State Governments to leave them to the local authorities to bear the full cost of running such services. If, however, it is administratively convenient to administer a fire service through the agency of a local authority, the State Government should make a special allocation of funds to that authority to cover the exact cost of running the fire service.

1165. We therefore recommend that if it is administratively convenient to administer a fire service through the agency of a local authority, the State Government should meet all the costs involved in running the fire service by the local authority.

STATUTORY BODIES AND LOCAL GOVERNMENT FUNCTIONS

1166. In view of the fact that we have recommended the setting up of local government on the basis of the existing administrative districts, every part of the country hereafter will be serviced by a local authority. As such we are of the view that there would be no justification for other statutory bodies to undertake services that are normally rendered by local authority. Further, the rendering of such services by a statutory body other than a local authority would not be consonant with the spirit of Article 95A of the Malaysian Constitution.

1167. We therefore recommend that no statutory body should be vested with powers to render services and functions that are normally within the purview of a local authority.

CHAPTER XIV

SUMMARY OF RECOMMENDATIONS

Chapter VII—State Capitals

(1) Every State Capital in West Malaysia should:

(i) be administered by a local authority;

(ii) have elective representation, which principle should also be extended to all local authorities outside the State Capitals;

(iii) be vested with financial autonomy;

(iv) be subject to the directives issued by the State Governments on matters of national or state importance and interests and this should be expressly provided in the law;

(v) have its area of administration coincide with the administrative district in which it is situate and should be governed by the recommendations made in the following chapters in regard to local authorities for the future (paragraph 559).

Chapter VIII—Elective Representation

(2) Party politics should be allowed to continue despite its good and bad aspects and those who wish to stress their faith in non-conformism should have the right to stand as 'independent' as in the past (paragraph 576).

(3) The present system of election on the basis of ward should continue to provide representation to local government as in the past (paragraph 585).

(4) A councillor should not be required to vacate his seat in a local authority if he resigns from his political party or joins another party (paragraph 600).

(5) Voting in local government elections in the country should continue on the voluntary basis as has been hitherto (paragraph 617).

(6) (i) A candidate in a local election should have one of the following qualifications—

(*a*) he should have passed Standard IV in a Malay School or L.C.E. in Bahasa Kebangsaan (National Language) or any other higher standard or qualification and is in possession of a certificate in support thereof; OR

(*b*) he should have passed Lower Certificate of Education in English (L.C.E.) or Standard VII in the former educational system or any other higher standard or qualification and is in possession of a certificate in support thereof; OR

(*c*) if he is unable to produce any of the certificates referred to in (*a*) and (*b*) above, he should be able to read simple passages either in the National Language or in English;

(ii) on the nomination day, every candidate should forward with his nomination papers a photostat of his educational certificate if he is in possession of such a certificate;

(iii) in the case of a candidate who does not possess an educational certificate, he should be tested by the Returning Officer in the presence of and witnessed by one prominent citizen appointed by the State Authority as to the candidate's ability to read as provided in (i) (*c*) above. On being satisfied, the Returning Officer and the witness should sign a certificate to the effect that the candidate had passed the test. This certificate should be filed by the candidate together with his nomination papers (paragraph 634).

(7) Only the National Language and English may be used in the councils of local government and the National Language should gradually replace English in accordance with the national policy of the Federal and the State Governments (paragraph 636).

(8) An Association of Councillors of Local Authorities should be established [paragraph 647 (i)].

(9) Such an Association should be a statutory body [paragraph 647 (ii)].

(10) Every councillor of a local authority in the country should be a member of the Association and his annual subscriptions paid by his local authority [paragraph 647 (iii)].

(11) The Association should be provided with a Constitution by the Ministry of Local Government with the concurrence of the National Council for Local Government [paragraph 647 (iv)].

(12) The Association should consist of the following:

(*a*) a National Headquarters at the Federal level;

(*b*) State Branches at the State level [paragraph 647 (v)].

(13) The National Headquarters should convene an Annual National Conference. Likewise every State Branch should convene an Annual State Conference [paragraph 647 (vi)].

(14) Every councillor of a local authority should be entitled to attend and participate in the Annual Conference of his State [paragraph 647 (vii)].

(15) The councillors of every local authority should elect one-fourth of their strength to attend as delegates at the Annual National Conference [paragraph 647 (viii)].

(16) The State Annual Conference may pass resolutions on local government matters in the State as a whole and submit them for the consideration of the State Authority. Such resolutions should not be binding on the State Authority which may reject or accept them at its absolute discretion [paragraph 647 (ix)].

(17) A State Conference may also submit resolutions for discussion at the National Conference provided such resolutions are pertaining to local government and are of national importance [paragraph 647 (x)].

(18) The State Conference may invite experts and others knowledgeable in local government matters to speak and present papers on local government matters which are of educative value [paragraph 647 (xi)].

(19) The resolutions passed by the National Conference should be submitted to the Ministry of Local Government with no binding effect on the Minister. The Minister may reject them at his absolute discretion, but if he considers them meritworthy he may refer them to the National Council for Local Government with his own views thereon. Where the resolutions are of urgent importance the Minister may take such other steps as he may consider necessary to have them formulated into a policy or implemented with the concurrence of the State Authorities [paragraph 647 (xii)].

(20) At the National Conference experts and others knowledgeable in local government should be invited to speak and present papers on subjects of local government interests such as those referred to in paragraph 645 of Chapter VIII [paragraph 647 (xiii)].

(21) It should be provided in the law that the State Conference and the National Conference should not be used as platforms for political or partisan propaganda and that it should primarily serve as a study forum for the ventilation of views on local government matters *per se* without political or partisan connotations [paragraph 647 (xiv)].

Chapter IX—Constitution and Structure

(22) The existing local authorities of all categories should be dissolved and in their place a single composite local authority be established co-terminous with each of the administrative districts subject to (23) hereof [paragraph 670 (i)].

(23) Where a district is large in area and in population and it is found convenient to have two local authorities in that district, the State Authority should establish two separate local authorities for each of such areas, provided that no such area has a population less than 30,000, not too small for physical planning and has a sufficient rural and urban base. In exceptionally large districts, three local authorities may be established but in any event no district however large should have more than three local authorities [paragraph 670 (ii)].

(24) Exception to (23) above should be made for the districts of Sik, Cameron Highlands and Marang [paragraph 670 (iii)].

(25) In deciding whether two (and in exceptional circumstances three) local authorities are necessary in one district the State Authority should take into consideration the ecological conditions of the district and the factors determining the size and population of a local authority [paragraph 670 (iv)].

(26) The local authority established for a whole or part of a district should have jurisdiction over the entire or part of the district as the case may be [paragraph 678 (i)].

(27) In principle, a district local authority should provide services throughout its district [paragraph 678 (ii)].

(28) Depending on the quantum of services rendered there should be a difference in the scale of rates levied against rural house-holders [paragraph 678 (iii)].

(29) Every house-holder in a local authority should be required to pay a nominal contribution of not less than $1 per annum in lieu of rates if no service is provided by the local authority [paragraph 678 (iv)].

(30) The local authority of a district or a part of a district should be styled as Municipality or District Council [paragraph 683 (i)].

(31) The criterion for giving the status of Municipality or District Council should be based on the revenue of the particular authority [paragraph 683 (ii)].

(32) Where an existing Municipality or Town Council together with the other local authorities in the district would have an annual total income of not less than $2,000,000 it should be styled a Municipality. Where the annual revenue is less than $2,000,000 it should be styled a District Council. In addition to the existing Municipalities in George Town, Ipoh and Malacca, the following should be given Municipality status: Johore Bharu, Klang, Petaling Jaya, Taiping and Seremban [paragraph 683 (iii)].

(33) There should be one composite law replacing all existing laws throughout West Malaysia under which local authorities of all categories at present operate and it should be styled as the "Local Government Act". It should relate to and govern both the Municipality and the District Council [paragraph 685 (i)].

(34) The Local Government Act should be passed by Parliament after necessary consultations with the State Governments as required by the Malaysian Constitution [paragraph 685 (ii)].

(35) Every State should adopt and enforce the Local Government Act within six months after it has been passed by Parliament [paragraph 685 (iii)].

(36) A local authority should be decentralised and should have the following attributes:

(i) it should be a separate legal person or a body corporate;

(ii) it should be autonomous;

(iii) it should be representative;

(iv) it should be subject to the control of the State Authority [paragraph 688 (i)].

(37) A local authority should, *inter alia*, have the following attributes of a body corporate—

(i) a perpetual succession;

(ii) a common seal;

(iii) power to sue and be sued in its own name;

(iv) power to enter into contracts;

(v) power to acquire, purchase, take hold and enjoy movable and immovable property of every description;

(vi) power to develop lands for social amenities and for remunerative purposes;

(vii) power to convey, assign, surrender and yield up charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with any movable or immovable property or any interest therein vested in the authority upon such terms as to the authority may seem proper, prudent and fit;

(viii) power to lend and borrow money for any of the authority's purposes or interests subject to the approval of the State Authority [paragraph 688 (ii)].

(38) The above attributes and powers should be in addition to those specifically enumerated in the Act and subject to such controls of the State Authority as are expressly specified [paragraph 688 (iii)].

(39) A local authority should have such sufficient degree of autonomy as to make it function with initiative and enthusiasm [paragraph 688 (iv)].

(40) A local authority should have financial, administrative and functional autonomy to a reasonable extent [paragraph 688 (v)].

(41) Within the approved limit and within the provisions of the Act a local authority should have power to impose rates and fees, to retain the revenue and expend it, subject to the approval of its draft annual budget by the State Authority [paragraph 688 (vi)].

(42) Financial autonomy does not mean financial self-reliance and every local authority should be entitled to receive financial grants from both the State Authority and the Central Government, notwithstanding its financially autonomous status [paragraph 688 (vii)].

(43) Every local authority should have administrative autonomy to the extent that it should be able to decide by itself the category and the number of qualified officers and other employees it needs subject to the approval of the State Authority [paragraph 688 (viii)].

(44) The Local Government Act should enumerate certain functions as obligatory and other functions as discretionary [paragraph 688 (ix)].

(45) Every local authority should perform all obligatory functions and may perform any or all discretionary functions [paragraph 688 (x)].

(46) In addition to the enumerated powers, whether obligatory or discretionery, a local authority should have general competence to do whatever in its opinion is in the interests of its area or inhabitants, subject to its not encroaching upon the duties of other governmental bodies and subject to the prior approval of the State Governments [paragraph 688 (xi)].

(47) Every local authority should have a representative body known as the Council [paragraph 693 (i)].

(48) All the councillors of a Municipality should be elected by citizens of the authority area and by popular franchise [paragraph 693 (ii)].

(49) Likewise, all the members of a District Council should be wholly elected with a proviso that the State Authority, if it deems necessary so to do in order to ensure the adequate representation of minorities and specific interests such as trade, culture, trade union, profession and sports, may nominate for a term of one year such number of persons as would not exceed one-third of the entire number of the elected members of a Council. A nominated member may be eligible for renomination for a further term or terms [paragraph 693 (iii)].

(50) The District Secretary of a District Council should, at the instance of the State Authority, request recognised local organisations representing minorities or the aforesaid specific interests to submit names in the alternative and the District Secretary should prepare a list of names representing the minorities and the said interests and forward the same with his preferential recommendations. The State Authority should nominate the number required only from the list of names forwarded by the Secretary [paragraph 693 (iv)].

(51) Voters' qualifications and disqualifications should continue to be the same as they are at present [paragraph 693 (v)].

(52) The Elections Commission should be responsible in consultation with the State Authority for any demarcation of the electoral wards in each local authority area. Determination of the number of councillors for every local authority should be vested with the State Authority [paragraph 693 (vi)].

(53) In determining the number of councillors, the State Authority should take into consideration the district's ecological conditions, the factors determining the size and shape of the district and its density of population [paragraph 693 (vii)].

(54) A Council should consist of not less than twenty-two and not more than forty-two members [paragraph 693 (viii)].

(55) Every councillor, with the exception of nominated members, should be directly elected on a single-member or, where necessary, by a plural-member ward by simple majority votes or on a hierarchy of majorities as the case may be [paragraph 693 (ix)].

(56) The election of councillors should be for a period of three years with all the councillors retiring at the expiry of that period [paragraph 693 (x)].

(57) The Elections Commission should be charged with the responsibility of conducting the elections [paragraph 693 (xi)].

(58) The Council of a Municipality should consist of—

(i) the Mayor;

(ii) elected councillors;

(iii) Municipal Secretary [paragraph 697 (i)].

(59) The Council of a District Council should consist of—

(i) the President;

(ii) elected councillors;

(iii) nominated councillors, if any;

(iv) District Secretary [paragraph 697 (ii)].

(60) The Mayor or President of every Council should be elected by and from among the councillors thereof by secret ballot and by simple majority votes [paragraph 697 (iii)].

(61) The Mayor or President of each Council should preside at the Council meeting [paragraph 697 (iv)].

(62) Where a Mayor or President is out of the country or is unable to be present for a reasonable cause or is precluded from the proceedings in any matter, the members of the Council should elect one from amongst themselves to preside temporarily as acting Mayor or President [paragraph 697 (v)].

(63) If any elected or nominated member of a Council should die or resign or otherwise cease to be a member, the vacancy caused thereby shall be filled within six months by a fresh election or by a fresh nomination as the case may be [paragraph 697 (vi)].

(64) Any person elected or nominated to fill a casual vacancy in a Council should hold office until the date on which the member thereof in whose place he is elected or nominated would normally have retired or his term of nomination would have expired [paragraph 697 (vii)].

(65) The elected Councillor of a Municipality and the elected and nominated councillors, if any, of a District Council should have the right to vote at a meeting of the Council [paragraph 697 (viii)].

(66) The Municipal or District Secretary should have the right to participate in the proceedings of a Council but should have no voting right [paragraph 697 (ix)].

(67) The Mayor or the President should not ordinarily vote but where the votes are equally divided he may exercise a casting vote [paragraph 697 (x)].

(68) A member of a Council should not vote or be present at the discussion of any matter before the Council or a Committee thereof in which he has directly or indirectly by himself or by his partner any pecuniary or gainful interest [paragraph 697 (xi)].

(69) The quorum for a Council meeting should be not less than one half of its members [paragraph 697 (xii)].

(70) A Council should meet not less frequently than once in a month [paragraph 697 (xiii)].

(71) Uniform standing orders and rules for the regulation of proceedings at the meeting of a Council should be made by the Ministry of Local Government for adoption by every local authority with the concurrence of its State Authority [paragraph 697 (xiv)].

(72) A Council should be responsible for all the activities for which the local authority is by law responsible and answerable [paragraph 697 (xv)].

(73) Any decision of the Council should be unanimous or by simple majority [paragraph 697 (xvi)].

(74) Provisions of Part IV of the Local Government Elections Act, 1960, which are not in conflict with the recommendations herein may usefully be incorporated [paragraph 697 (xvii)].

(75) In ascertaining the responsibilities of the Council there should be a flexible division between matters of "policy" and "administration" [paragraph 708 (i)].

(76) The Council should confine itself to matters of policy [paragraph 708 (ii)].

(77) Generally, matters of routine administration should be the overall responsibility of the Municipal or District Secretary [paragraph 708 (iii)].

(78) In deciding what is a matter of policy, the following criteria may be applied—

(i) identifying the problems and the setting up of overall objectives of the authority;

(ii) decisions on the objectives and the order of their priorities;

(iii) means and plans to attain the objectives;

(iv) direction and control of the affairs of the authority;

(v) scrutiny even of a routine administrative matter if it is one of political or public significance to ascertain whether it involves a matter of policy.

(vi) periodical review of the progress and performance of the authority and decisions thereon [paragraph 708 (iv)].

(79) What is a matter of administration may be decided by applying the following criteria—

(i) day-to-day administration of services, decisions on case work and routine inspection and control, should be the responsibility of the officers;

(ii) preparation and submission of periodical reports and advice on staff work by officers so that the councillors may set the objectives and take decisions on the means of attaining them;

(iii) identifying and isolating any specific problem or case which in the officer's view and from his knowledge of the minds of the councillors, has such policy implication that the councillors may wish to consider and decide on it [paragraph 708 (v)].

(80) A Mayor or President of a Council should hold office for a period of one year and should be eligible for re-election for a second or third year of a Council's term [paragraph 715 (i)].

(81) Where a Council has nominated members, its President may be elected from amongst them [paragraph 715 (ii)].

(82) The Mayor or President should be the ceremonial head of the local authority and play the role of first citizen in the district. He should be empowered to receive and entertain dignitaries from the State or Federal Government or at the request of the State Authority any dignitary from abroad [paragraph 715 (iii)].

(83) The Mayor or President should preside over the full Council meeting and in matters of Standing Orders governing the procedure of the Council he should act on the advice of the Secretary to the local authority [paragraph 715 (iv)].

(84) It should be laid down in the law that in discharging his duties both in and out of the Council the Mayor or President should act impartially and in a non-partisan manner befitting his status as the first citizen of the district [paragraph 715 (v)].

(85) A proper robe and a mayoral insignia should be conceived in harmony with the traditions of the country and produced on a standard pattern for all the Mayors in the country [paragraph 715 (vi)].

(86) The Council of a local authority should from time to time determine the number and type of committees for specific services provided in the Local Government Act [paragraph 763 (i)].

(87) Committees should not be concerned with executive responsibilities. They should not be directing, supervising or controlling bodies nor should they be concerned with routine administration [paragraph 763 (ii)].

(88) No committee should have more than eleven members including co-opted members [paragraph 763 (iii)].

(89) In every committee, not more than one-third of the members should be co-opted from among suitable citizens of the district [paragraph 763 (iv)].

(90) On the recommendation of the Secretary, the Management Board should be empowered to appoint the required number of councillors and suitable citizens to serve on the committees. The names of the members of the committees who are finally selected should be tabled at the next meeting of the Council for the Council's confirmation. In every committee both the councillors of the majority and the minority parties should be appointed in approximate proportions to their strength in the Council [paragraph 763 (v)].

(91) The Chairman of every committee should be a Member of the Management Board [paragraph 763 (vi)].

(92) It should be a regular and important feature of a committee to hear views of the public and interested bodies, and to gather public opinion from time to time in respect of the functions for which it is responsible [paragraph 763 (vii)].

(93) Any member of the public or a public organisation wishing to be orally heard should be given the opportunity of being heard, provided the committee is first satisfied that the matter for which the hearing is sought is relevant to its function and that the hearing might be in the public interest. Such hearings should be open to the public, press and other mass media [paragraph 763 (viii)].

(94) A member of the public who wishes to be heard may appear personally or through his solicitor. Likewise, a public organisation may appear through its representative or its solicitor [paragraph 763 (ix)].

(95) A committee's role should be deliberative and representative in the sense that—

(i) it considers the interests, reactions and criticisms of the public in respect of its particular function and conveys them to the Management Board;

(ii) it considers any matter raised by its own members in respect of its function or referred to it by the Management Board;

(iii) it makes recommendations to the Management Board on the major objectives of the authority in respect of its function and studies and recommends the means to attain the objectives; it examines either new ideas of its own or those presented to it by other public bodies in respect of its function;

(iv) it reviews periodically the progress on plans and programmes of the authority in respect of its function in the same way as the Management Board does for the whole range of services of the local authority [paragraph 763 (x)].

(96) No committee should take executive decisions in any matter except at the express requirement of the Management Board. In such a case, the extent of decision-making by the committee should be strictly defined by the Management Board and it should be made clear that even then the committee should only issue to the head of department instructions on such matters through the Management Board [paragraph 763 (xi)].

(97) The number of committees to be constituted should be kept to the very minimum and wherever practicable and expedient similar or related services should be grouped and allocated to one committee [paragraph 763 (xii)].

(98) There need be no express provisions in the law requiring the establishment of specific committees [paragraph 763 (xiii)].

(99) Every local authority should have a Management Board [paragraph 777 (i)].

(100) The Management Board should be composed of not less than five and not more than nine councillors. Such councillors should be elected by the Council [paragraph 777 (ii)].

(101) The members of the Management Board should elect one from amongst their number to be the Chairman of the Management Board [paragraph 777 (iii)].

(102) The functions of the Management Board should be—

(i) to receive recommendations from the committees of the authority and to evaluate them;

(ii) to formulate from time to time the main objectives of the authority with proposals to attain them and to have them tabled for consideration and decision by the Council;

(iii) to review periodically the progress made by the authority in the realisation of its various objectives and to evaluate the results attained or not attained on behalf of the Council and to submit recommendations thereon for the Council's further consideration and decision;

(iv) to maintain, on behalf of the Council, an overall supervision of the organisation of the authority and of its co-ordination and integration wherever necessary;

(v) to make decisions on behalf of the Council on matters specifically delegated to it, and, where authority has not been delegated, to recommend decisions to the Council;

(vi) to be responsible for the presentation of business to the Council subject always to the rights of members under Standing Orders [paragraph 777 (iv)].

(103) A member of the Management Board should not consider himself responsible for any particular service of the authority or its department. This responsibility belongs to the principal officer concerned [paragraph 777 (v)].

(104) A member of the Management Board, however, may take special interest in a particular service or department and acquaint himself well with the subject so that he can speak on it in the Council with knowledge and understanding [paragraph 777 (vi)].

(105) A member of the Management Board should adhere to the principle of collective responsibility of the Management Board [paragraph 777 (vii)].

(106) No member of the Management Board should by-pass the Secretary to the local authority and establish direct dealings with any principal officer and act independently of the Board [paragraph 777 (viii)].

(107) No one person should at the same time be the Chairman of the Management Board and be a Mayor or President of an authority [paragraph 777 (ix)].

(108) The Chairman of the Management Board may introduce any motion or proposal as recommended by the Management Board [paragraph 777 (x)].

(109) Members of the Management Board should be responsible for answering questions raised during the Question Time in the Council. The Question Time should not exceed one hour at every sitting of the Council [paragraph 777 (xi)].

(110) The principal administrative and executive officer of a local authority should be styled as the Municipal or District Secretary as the case may be and should be appointed or removed by the State Authority [paragraph 793 (i)].

(111) (*a*) In the case of a Municipality, an officer of the Malaysian Home and Foreign Service not below the rank of Superscale "F" should be appointed, on secondment, as the Municipal Secretary for a minimum period of not less than three years at a time [paragraph 793 (ii)]; or

(*b*) Any serving Secretary of an existing Municipality or of a local authority with an annual revenue of not less than $2,000,000 should be retained in service as the Municipal Secretary, provided that he is found suitable for the increased responsibilities consequent upon the reforms proposed herein [paragraph 793 (iii)].

(112) In the case of District Councils, any of the following may be appointed as a District Secretary of a District Council—

(*a*) a serving officer in the Malaysian Home and Foreign Service not below the rank of Superscale "H" or an officer of the State Civil Service of equivalent status. In such a case, his appointment should be on secondment for a period of not less than 3 years at a time;

(*b*) a serving Secretary of a financially autonomous Town Council, Town Board or District Council who in the opinion of the State Authority is a suitable person to be retained in the service;

(*c*) an Honours graduate preferably in Economics or Public Administration from a recognised University with not less than 5 years' experience in administration either in Government or in the private sector;

(*d*) a qualified company secretary or accountant or a lawyer with not less than 5 years' experience in administrative or professional service;

(*e*) a person holding a diploma or degree in local government studies of a recognised University or an Institute and with not less than 7 years' experience in local government administration [paragraph 793 (iv)].

(113) Except for an officer of the Malaysian Home and Foreign Service and an officer of the State Civil Service seconded to serve as Secretary in an authority, any other person so appointed may be employed on a permanent basis with the usual provision in the contract of service for termination by either side [paragraph 793 (v)].

(114) The Secretary should be the chief executive and chief administrator of the local authority [paragraph 793 (vi)].

(115) The Secretary should have authority over all other departmental heads of the authority to the extent necessary for the efficient administration and execution of the authority's functions [paragraph 793 (vii)].

(116) The Secretary should be responsible to the Management Board and through it to the Council as a whole [paragraph 793 (viii)].

(117) The departmental heads should be responsible to the Council through the Secretary [paragraph 793 (ix)].

(118) The terms and conditions of service should be such that the respective positions of the Secretary and the departmental heads should be made beyond equivocation [paragraph 793 (x)].

(119) The Secretary should be an *ex-officio* member of the Council of his local authority [paragraph 793 (xi)].

(120) The Secretary should be allowed to participate in the Council debates and proceedings without the right to vote in deciding any matter [paragraph 793 (xii)].

(121) After consulting the Council's Mayor or President, the Secretary should be responsible for fixing the date and time of the Council's meeting, preparing the order paper of the meeting and for calling the meeting of the Council [paragraph 793 (xiii)].

(122) It should be the duty of the Secretary to advise the Council on all matters touching upon—

(i) the existence or non-existence of the power of the Council on any question before it;

(ii) the legality or non-legality of any question or proposition before the Council;

(iii) the procedure of the meeting generally and in respect of matters before the Council either through the Mayor or President or by himself with the consent of the Mayor or President [paragraph 793 (xiv)].

(123) Where a Secretary advises as provided in Recommendation No. (122) above and notwithstanding such advice the Council decides against it, the Secretary should state in writing his advice, the reasons therefor, the particulars of the decision and the reasons therefor and forward the same to the State Authority within one week of the date of the decision of the Council. Until the State Authority makes known its decision on the matter, no action on the matter should be taken [paragraph 793 (xv)].

(124) The Secretary should cause full minutes of the proceedings of all meetings of the Council to be taken and submit the same to the State Authority within fourteen days of such meeting [paragraph 793 (xvi)].

(125) The Secretary should also be the Secretary of the Management Board of the Council [paragraph 793 (xvii)].

(126) It should be the duty of the Secretary to have the Management Board adequately serviced and to carry out its responsibilities by providing co-ordinated and integrated staff work and seeing that its decisions and those of the Council are implemented [paragraph 793 (xviii)].

(127) It should be the duty of the Secretary to exercise on behalf of the State Authority such powers as are conferred upon him by the State Authority [paragraph 793 (xix)].

(128) Three categories of powers should be ascribed to the Secretary—

(i) Powers granted to him in respect of the local authority;

(ii) Powers delegated to him by the State Authority in respect of State matters;

(iii) Powers delegated to him by the Federal Government in respect of Federal matters [paragraph 793 (xx)].

(129) In the case of State matters, the Secretary should be made responsible for all matters other than land matters and general revenue of the State [paragraph 793 (xxi)].

(130) Such welfare services as have been carried out through the District Officer by the State Authority should hereafter be carried out through the Secretary to the Council and for such purposes the Secretary should be given the power to seek local participation as he deems necessary and expedient [paragraph 793 (xxii)].

(131) The district development service hitherto carried out through District Development Committees under the Chairmanship of District Officers should be carried out in like manner under the Chairmanship of the Secretary to the Council with enlarged participation by the inclusion of a suitable number of councillors from the authority [paragraph 793 (xxiii)].

(132) Likewise, the Federal Government wherever possible and expedient should delegate its field services, whether of development or of a welfare nature, to the Secretary and through him render the developments or the services to the local populace with local participation wherever it is considered necessary [paragraph 793 (xxiv)].

(133) In providing such services the Federal Government should defray the administrative and other expenses incurred by the Secretary in acting as the agent of the Federal Government at the district level [paragraph 793 (xxv)].

(134) The overall duties of the Secretary should include—

(i) maintaining the effectiveness and efficiency of the authority and the co-ordination and integration where necessary of its activities;

(ii) introduction and application of effective control systems;

(iii) providing leadership to the administration as a whole so that under his leadership heads of departments can work as a team and able officers are given opportunities for self-development with responsibilities to match their talent and initiative;

(iv) provision of secretarial services for all Committees;

(v) introduction of measures to secure economy in the use of manpower and materials from time to time [paragraph 793 (xxvi)].

(135) The principal officers of a local authority should be the heads of their various departments [paragraph 793 (xxvii)].

(136) The principal officers should—

(i) be responsible to the Council through the Secretary for the efficient and effective management of the services provided by the departments of which they are the heads;

(ii) execute the instructions of the Council and of the Management Board and take such decisions as are necessary to give effect to the instructions;

(iii) advise the Management Board as and when required by the Secretary and the committees whenever necessary and provide staff work to the Board and the committees with professional and technical advice as requested;

(iv) work as members of a team of managers and specialised advisers under the Secretary;

(v) be active in promoting innovation and improvements throughout the authority area [paragraph 793 (xxviii)].

(137) Every authority should adopt a systematic approach to the process of management [paragraph 798 (i)].

(138) To achieve this end, every authority should require its Secretary to work out a time-table to be included in management procedure guides which will ensure that objectives are set and progress reviewed in all fields of activity [paragraph 798 (ii)].

(139) It should be expressly provided in the law that any act authorised or required to be done by a local authority may be done by an officer of the said authority in that behalf by authority of the Council either generally or specifically [paragraph 802 (i)].

(140) Provision should be made in the law that a document purporting to be signed by an authorised officer containing a decision of an authority shall be accepted by the Courts [paragraph 802 (ii)].

(141) Provision should also be made in the law granting legal protection to the authorised officer from being asked in any court or tribunal to disclose, on discovery or interrogatories or in evidence, whether the decision has been taken by the authority or Management Board, or committee or an officer acting within delegated powers [paragraph 802 (iii)].

(142) The State Government should have legislative, administrative and financial control over the local authority [paragraph 831 (i)].

(143) Legislative control may be exercised by taking steps to amend the Act as and when circumstances require [paragraph 831 (ii)].

(144) Administrative control should be laid down in the Act to avoid uncertainties [paragraph 831 (iii)].

(145) Financial control also should be expressly laid down in the Act to avoid uncertainties [paragraph 831 (iv)].

(146) Control should be exercised by the State Authority by review of an authority's decisions. Such reviews may be: (*a*) legal reviews; or (*b*) merit reviews [paragraph 831 (v)].

(147) Legal review should be to ascertain the legality of a decision by an authority [paragraph 831 (vi)].

(148) If a decision of an authority is found to be contrary to any legal provision, the State Authority should declare that it is unlawful [paragraph 831 (vii)].

(149) Provisions should be made in the law setting out the procedure of legal review on the following lines—

(i) where a Council wants to make a decision which is contrary to law, it is the duty of the Secretary to advise that it is unlawful.

(ii) if the Council accepts the Secretary's advice, the matter should end there.

(iii) if the Council does not accept the Secretary's advice and makes a decision contrary thereto, the Secretary should proceed to act as recommended in Recommendation (123).

(iv) within 21 days of the receipt of the Secretary's submission, the State Authority through the State Commissioner of Local Government should give its opinion thereon, failing which, the local authority concerned should be entitled to act on the decision as if the decision is deemed to have been confirmed by the State Authority. In such a case, any citizen in the district concerned should have the right to nullify the decision by judicial process.

(v) if the State Authority gives its views confirming the advice of the Secretary, the opinion of the State Authority should prevail unless any councillor or a citizen on his own behalf and at his own expense applies to the High Court for a judicial review of the legality of the decision and for the relevant remedies.

(vi) pending the opinion of the State Authority within the stipulated time, no decision passed by the Council should be implemented [paragraph 831 (viii)].

(150) Merit review should be very sparingly exercised as provided hereunder—

(i) when a local authority refuses or fails to do an act which, in the opinion of the State Authority, the local authority should do in the general interest of the district, the State or the country as a whole; or

(ii) when a local authority does an act which, in the opinion of the State Authority, the local authority should not do in the general interest of the district, the State or the country as a whole;

(iii) when a local authority is dissatisfied with the opinion of the State Authority, it may apply to the High Court of the State seeking a declaration as to whether or not the act or the refusal or failure to do the act is in the general interest of the district, the State or the country as a whole, with a right of appeal from the High Court to the Federal Court. The decision of the Federal Court should be final and conclusive [paragraph 831 (ix)].

(151) The State Authority should be empowered either in a legal review or a merit review to instruct the Secretary to the Council to do an act or not to do an act regardless of the Council's decision. The Secretary should be bound to act when so instructed. Where a Secretary without reasonable excuse fails to act as instructed, the State Authority should have power to remove him from service. This power of the State Authority should be expressly provided in the law notwithstanding the right of the local authority to apply to the court as provided in recommendation (150) (iii) [paragraph 831 (x)].

(152) The merit review should be exercised only in respect of a matter though lawful but not desirable in the general interest of the district, State or the country as a whole and a State Authority should instruct the Secretary of a Council as provided in Recommendation (151) only as a last resort [paragraph 831 (xi)].

(153) The following may be laid down in the law as subject to pre-review by the State Authority—

(i) the annual budget estimates;

(ii) by-laws;

(iii) any decision of a Council which has been passed against the advice of a Secretary;

(iv) confirmation of all posts on the local authority's establishment prior to filling the said posts and removal from service of any employee above the Industrial and Manual Group;

(v) approval of any act under general competence [paragraph 831 (xii)].

(154) In respect of the Annual Budget, the local authority should submit its detailed draft Budget to the State Authority not later than 30th October of any year and the State Authority should within six weeks of the receipt of the draft Budget consider and approve, reduce or reject any items of expenditure appearing therein [paragraph 831 (xiii)].

(155) Any matter that is subject to pre-review should be enforced or implemented only after the approval thereof by the State Authority [paragraph 831 (xiv)].

(156) The State Authority should have power to suspend the powers of a Municipal or a District Council. The powers should be expressly provided in the Law. They should not be general but specific [paragraph 831 (xv)].

(157) A Council of a local authority may be suspended from functioning on the following grounds—

(i) a Council that consistently neglects its duties in checking its administration and by its consistent acts or omissions allow a corruption of wide public import or generally wide-spread corruption in the administration or general malpractice or maladministration among the officers of the authority;

(ii) a Council that allows too much of power in the hands of its Management Board to the extent that the members of the Board themselves indulge in corrupt practices or permit either by act or commission general maladministration or corrupt practices or malpractices or gross financial mismanagement to arise among the officers;

(iii) a Council that consistently passes unlawful decisions against the advice of the Secretary and which are confirmed to be unlawful by the State Authority [paragraph 831 (xvi)].

(158) Before a State Authority can exercise its powers of suspension, it should be so advised to act by the Federal Commissioner of Local Government [paragraph 831 (xvii)].

(159) The Federal Commissioner of Local Government should have an Inspectorate of Local Government functioning under him with regional offices at appropriate centres throughout West Malaysia. The latter should be styled as the Regional Inspector of Local Government [paragraph 831 (xviii)].

(160) The duties of a Regional Inspector should be as follows—

(i) he should make periodical visits to the local authorities in his region;

(ii) he should have the right to ask for and examine any document of any local authority;

(iii) he should be empowered to receive complaints in respect of a local authority from the citizens in that district, either verbally or in writing, and to investigate and check the veracity of such complaints;

(iv) he should be empowered to receive the minutes of the Council, the Management Board and Committees of every authority in his region and assess public opinion thereon as he deems necessary [paragraph 831 (xix)].

(161) Where a Regional Inspector is satisfied upon evidence that a Council of a district should be suspended, he should furnish to the Federal Commissioner of Local Government the reasons and the evidence in support thereof [paragraph 831 (xx)].

(162) The Federal Commissioner of Local Government on being satisfied with the evidence, should advise the State Government concerned to suspend the Council from functioning [paragraph 831 (xxi)].

(163) The State Authority should on receipt of such advice as referred to in Recommendation (162) suspend the Council in question [paragraph 831 (xxii)].

(164) For the purpose of furnishing evidence as referred to in Recommendation (161) the Regional Inspector should also investigate at the instance of a State Authority or by public complaints [paragraph 831 (xxiii)].

(165) When a Council is suspended, all its powers and those of the councillors should be superseded by the State Authority and the Secretary should continue to administer the local authority under the instructions of the State Authority for a period not exceeding nine months from the date of suspension and supersession [paragraph 831 (xxiv)].

(166) At the time of suspension and supersession of a local authority, the State Authority should issue a statement setting out the reasons for suspension and supersession [paragraph 831 (xxv)].

(167) Before the expiry of nine months of the suspension and supersession of a local authority a fresh election should be held for the Council [paragraph 831 (xxvi)].

(168) An Act of suspension should be final with no right of appeal to any court or body [paragraph 831 (xxvii)].

(169) A suspension of a Council should be effected very sparingly and only as a last resort in the interests of the authority and the citizens of the district as a whole [paragraph 831 (xxviii)].

(170) The functions of a State Authority in relation to local government in a State should be exercised by a Local Government Committee [paragraph 837 (i)].

(171) The State Authority should be advised and assisted by a full-time officer of senior rank and experience styled as the State Commissioner of Local Government [paragraph 837 (ii)].

(172) All communications from the local authorities should be addressed to the State Commissioner of Local Government and likewise the State Authority will channel its communications to the local authority through the State Commissioner of Local Government [paragraph 837 (iii)].

(173) In every State, there should be a Committee for Local Government appointed by the State Authority under the Chairmanship of a member of the Executive Council of the State Government, which should have the following as members—

One member of the Executive Council of the State;

Three members of the State Legislative Assembly;

State Legal Adviser;

State Financial Officer;

State Planning Officer;

State Health Officer;

State Engineer;

State Architect (if any);

State Development Officer;

State Commissioner of Local Government who should be the Secretary to the Committee [paragraph 837 (iv)].

(174) The State Committee for Local Government should meet as often as is necessary but not less than once a month [paragraph 837 (v)].

(175) The functions of the State Committee of Local Government should be—

(i) to review monthly reports on the progress of every local authority in the State. Such reports should be prepared and tabled by the Secretary to the Committee;

(ii) to approve with or without modification the annual draft budget estimates of the local authorities;

(iii) to confirm or reject the number and type of posts of the employees of local authorities;

(iv) to review the legality or illegality of a decision of a local authority and to decide thereon;

(v) to exercise the powers of merit reviews in respect of acts or ommissions of a local authority and to issue such instructions as it deems fit;

(vi) to decide or act on any matter that by law the State Authority is required to decide or act in respect of local authorities except where such power to decide or act is expressly granted to any other person or body;

(vii) to determine the total annual general grant to be made to every local authority and to decide upon specific grants for specific projects;

(viii) to consider and recommend necessary amendments to the Local Government Act for consideration by the National Council for Local Government;

(ix) to receive and act on the advice of the Federal Commissioner of Local Government in respect of suspension of any local authority;

(x) to serve as a clearing house for information on local government in the State;

(xi) to maintain up-to-date statistics on local government matters in the State;

(xii) to formulate the State policy in regard to local government in the State;

(xiii) to visit officially at least twice a year every local authority in the State to gain first-hand information about the local authority;

(xiv) to be generally responsible for all matters in respect of local government in the State and to make recommendations thereon to the State Authority [paragraph 837 (vi)].

(176) Whenever the State Committee for Local Government or the State Commissioner of Local Government considers it necessary to have a matter or complaint investigated, such matter or complaint should be referred to the Regional Inspector of Local Government [paragraph 837 (vii)].

(177) Upon receipt of such matter or complaint the Regional Inspector of Local Government should investigate into the matter and submit his report and recommendations to the State Authority direct with a copy thereof to the Federal Commissioner of Local Government for information and action if necessary [paragraph 837 (viii)].

(178) A person should have the right to test the validity of any by-law or decision of a local authority and seek the remedy of mandamus, certiorari or prohibition [paragraph 846 (i)].

(179) Every law or by-law or regulation in respect of any application should clearly state the obligatory requirements that the applicant is required to comply with and the discretionary provisions the local authority may exercise in respect of the said application [paragraph 846 (ii)].

(180) Whenever a person in a district applies for a trade licence, or submits a building plan for approval, or for any permission where such is needed, the principal officer who is empowered to deal with the application should grant or reject the application within a stipulated period as follows—

(i) in the case of any building plan within 45 days;

(ii) in the case of any trade licence within 14 days;

(iii) in the case of any other permission within 14 days [paragraph 846 (iii)].

(181) Where the principal officer fails to comply with Recommendation (180) above, an applicant is entitled to appeal to the committee of the authority that may be in charge of the matter or apply to the Local Government Tribunal [paragraph 846 (iv)].

(182) Where the principal officer rejects the application, he should state the reasons for his rejection and inform the applicant of his decision informing at the same time that the applicant may appeal against his decision to the Local Government Tribunal of the State within 14 days of the receipt of his letter [paragraph 846 (v)].

(183) On receipt of such a letter the applicant may appeal to the Local Government Tribunal within 14 days stating the grounds of his appeal [paragraph 846 (vi)].

(184) Within 60 days of the receipt of the notice of appeal, the Local Government Tribunal should hear and determine the appeal [paragraph 846 (vii)].

(185) The applicant may appear personally or by his solicitor and he should file such documentary statements as may be required by the rules of procedure of the Tribunal. Likewise, the principal officer should file such statements as may be required of him [paragraph 846 (viii)].

(186) The decision of the Tribunal should be final on questions of fact. On questions of law, either party may appeal to the High Court within 14 days of the decision of the Tribunal by filing the notices of appeal [paragraph 846 (ix)].

(187) The Local Government Tribunal should be constituted by the State Authority as follows—

(i) the Chairman of the Tribunal should be a lawyer of at least five years standing either in legal or judicial service or in private practice;

(ii) he should be a full-time judicial officer solely confined to local government matters;

(iii) he should have his own office with such requisite staff as to enable him to discharge his functions;

(iv) there should be a State-wide panel of members from each district consisting of suitable citizens of that district and appointed by the State Authority;

(v) whenever matters are to be heard in a district, the Chairman of the Tribunal should sit in the local authority's office of that district with preferably two members of the panel drawn from that district. Such members should not be councillors or members of any committee of the local authority concerned;

(vi) on questions of law, the members of the panel should be bound by the advice of the Chairman of the Tribunal. On questions of fact they may exercise their discretion [paragraph 846 (x)].

(188) The Commissioner for Local Government should hereafter be styled as the Federal Commissioner of Local Government [paragraph 860 (i)].

(189) The Federal Commissioner of Local Government should be assisted by such number of specialist and other officers as are necessary to discharge his functions effectively [paragraph 860 (ii)].

(190) Officers appointed to the Division of the Federal Commissioner of Local Government should serve a period of at least five years in the Division [paragraph 860 (iii)].

(191) A research section of the Division of the Federal Commissioner of Local Government should be set up preferably under an officer qualified in statistics. Such an officer should be responsible for maintaining up-to-date collection of data and statistics in respect of local government throughout the country [paragraph 860 (iv)].

(192) Every district local authority should establish a Ward Committee in every electoral ward in the district [paragraph 873 (i)].

(193) The Ward Committee should be styled as the Municipal Ward Committee in a Municipality and a District Ward Committee in a District Council [paragraph 873 (ii)].

(194) A Ward Committee should have not less than five and not more than nine members [paragraph 873 (iii)].

(195) The Secretary to a district local authority should select the members of every Ward Committee in his district and table the names for the confirmation of the Council. The Council, as a matter of course, should confirm such names. If the Council fails or refuses to do so, the Secretary may proceed to confirm the selection of such names [paragraph 873 (iv)].

(196) Members of a Ward Committee should be selected on a yearly basis and the selection should be so made as to give adequate representation to specific interests such as minority communities, rural interests, trade, labour interests and the like [paragraph 873 (v)].

(197) Members of a Ward Committee should elect a Chairman and a Secretary from amongst themselves [paragraph 873 (vi)].

(198) A Ward Committee's decisions should be by way of recommendations to the district local authority. Its decisions may be by majority and when the votes are equal the Chairman may exercise a casting vote [paragraph 873 (vii)].

(199) On receipt of a Ward Committee's recommendation the Secretary may execute it if it is one of routine executive matter or may refer it to the committee concerned if it is a matter that calls for formulation or modification of a policy [paragraph 873 (viii)].

(200) The committee concerned should consider the recommendation and express its views thereon and forward the same to the Management Board which in turn should table the recommendation with its own views thereon at the next meeting of the Council. If the Council approves the recommendation, the Secretary should implement the same [paragraph 873 (ix)].

(201) A Ward Councillor should not be a member of a Ward Committee [paragraph 873 (x)].

(202) A Ward Committee should however, from time to time invite the Councillor of the Ward to speak to the members of the Ward Committee in respect of the current policies and programmes of the local authority and on matters of interest to the ward [paragraph 873 (xi)].

(203) Whenever a Ward Committee sends its recommendations to the Secretary to the local authority, it should send a copy thereof to the Ward Councillor, or if there be more than one, to each of the Ward Councillors [paragraph 873 (xii)].

(204) Every local authority should be given the discretion to establish offices at such centres of the district as it considers necessary in order to provide services for the convenience of the local people. Such an office may be on a ward basis or one such office may be set up to serve more than one ward [paragraph 873 (xiii)].

(205) In consultation with the State Authority the Election Commission should, as far as possible, draw every ward in such a way as to have a rural and an urban base [paragraph 873 (xiv)].

(206) Councillors should be afforded allowances and privileges as follows—

MUNICIPALITIES

Allowances:

Mayor	A fixed allowance of $500 per month. An entertainment allowance of $150 per month.
Chairman of the Management Board	A fixed allowance of $150 per month and allowances at the rate of $50 per sitting of the Council, Management Board or of a Committee up to a maximum of $350 per month.
Members of the Management Board	Allowances at the rate of $50 per sitting of the Council, Management Board or of a Committee up to a maximum of $350 per month.
Councillors of Municipalities	Allowances at the rate of $50 per sitting of the Council or of a Committee up to a maximum of $250 per month.

Privileges:

Free telephones only for the Mayor and members of the Management Board;

Free medical attention for the councillor and his family;

Mileage allowances in accordance with Government rates;

Free motor car badge;

Special card identifying him as a councillor of his particular municipality;

Free supply of Government *Gazettes*, publications, etc., which contain matters of *direct* concern to his Council;

Refund of postal expenses incurred on official Council correspondence (paragraph 882).

DISTRICT COUNCILS

Allowances:

President	A fixed allowance of $400 per month. An entertainment allowance of $100 per month.
Chairman of the Management Board	A fixed allowance of $100 per month and allowances at the rate of $30 per sitting of the Council, Management Board or of a Committee up to a maximum of $250 per month.
Members of the Management Board	Allowances at the rate of $30 per sitting of the Council, Management Board or of a Committee up to a maximum of $250 per month.
Councillors of District Councils	Allowances at the rate of $30 per sitting of the Council or of a Committee up to a maximum of $150 per month.

Privileges:

Free telephones only for the President and members of the Management Board;

Free medical attention for the councillor and his family;

Mileage allowances in accordance with Government rates;

Free supply of Government *Gazettes*, publications, etc., which contain matters of *direct* concern to his Council;

Refund of postal expenses incurred on official Council correspondence (paragraph 882).

Chapter X—Administration

(207) Local authorities should have the power to employ their own employees [paragraph 900 (i)].

(208) Interviewing and selection of candidates for employment may be made by the Finance and Establishment Committee or any other suitable Committee of the local authority subject to the approval of the Council. The Secretary to the local authority should be a member of this Committee [paragraph 900 (ii)].

(209) Dismissal or removal of any employee above the Industrial and Manual Group should be effected by the State Commissioner of Local Government on the recommendation of the Council or the Secretary to the local authority. Such dismissal should be effected after due enquiry having regard to the principles of natural justice [paragraph 900 (iii)].

(210) Dismissal of employees in the Industrial and Manual Group should be the responsibility of the Secretary to the local authority [paragraph 900 iv)].

(211) Conditions of service of employees of local authorities particularly with regard to their qualifications for appointment, salary scales and discipline should be uniform throughout the country [paragraph 900 (v)].

(212) Terms and conditions of service of local authority staff should not be less favourable or advantageous than those obtaining in respect of corresponding officers in the government service [paragraph 900 (vi)].

(213) There should be a Central Provident Fund in respect of staff of all local authorities throughout the country [paragraph 900 (vii)].

(214) The Committee appointed by the National Council for Local Government to recommend uniform terms and conditions of service should submit its recommendations with the minimum of delay immediately a decision is taken by Government on the recommendations in the Report of the Justice Suffian Salaries Commission and on those in this Report [paragraph 900 (viii)].

(215) The State Authority should continue to have the power to approve or disapprove budget estimates of local authorities [paragraph 913 (i)].

(216) All posts on the establishment of local authorities regardless of the salary scales should be approved by the State Authority [paragraph 913 (ii)].

(217) Federal or State Government as the case may be should provide local authorities on full-time secondment professional and technical officers as required by them [paragraph 941 (i)].

(218) Financially strong local authorities should be required to meet the salaries and allowances of the officers so seconded [paragraph 941 (ii)].

(219) Salaries and allowances of officers seconded to financially weak local authorities should be paid by the Federal or State Government as the case may be [paragraph 941 (iii)].

(220) The Federal Government should bear full pension liability in respect of officers seconded to serve on full-time basis with local authorities [paragraph 947 (i)].

(221) Local authorities should only be required to pay pension contributions in respect of government officers who opt to the service of local authorities [paragraph 947 (ii)].

(222) A ten-week intensive course in Senior Staff Management should be conducted for Secretaries and principal officers of local authorities [paragraph 956 (i)].

(223) The Senior Staff Management Course should be conducted in co-operation with the Public Administration Department of the Faculty of Economics and Administration in the University of Malaya [paragraph 956 (ii)].

(224) All junior grade officers and clerical staff of local authorities should on appointment be given a week's induction course organised at State levels [paragraph 956 (iii)].

(225) The State Commissioner of Local Government should be responsible for arranging at the State level the courses for junior grade officers and clerical staff of local authorities [paragraph 956 (iv)].

(226) It should be the duty of the principal officers to provide on-the-job training to staff directly under their control and the Secretary to the local authority should ensure that adequate on-the-job training is being provided by the principal officers [paragraph 956 (v)].

(227) The Association of Councillors of Local Authorities should organise seminars and conferences of short duration and make such arrangements as would enable councillors to acquaint themselves with problems of local authorities and their finances and thereby enhance their usefulness and effectiveness [paragraph 956 (vi)].

Chapter XI—Services

(228) The Local Government Act should enumerate obligatory and discretionary services of every local authority [paragraph 998 (i)].

(229) Every local authority should be required to perform the obligatory services [paragraph 998 (ii)].

(230) Where a local authority does not have the financial resources to provide the obligatory services, the State Authority concerned should give annual general grants to bridge the gap between the revenue raised by the local authority and the cost of providing the services [paragraph 998 (iii)].

(231) A discretionary service should only be permitted by the State Authority on being satisfied that the local authority concerned has the financial resources to meet the substantial cost of such a service [paragraph 998 (iv)].

(232) No local authority should be required by the State Authority to provide a discretionary service when it is financially unable to do so, but it may perform such service if the State Authority fully defrays the cost incurred thereby [paragraph 998 (v)].

(233) Where the Federal or the State Government requires a local authority to provide a federal or state service, the costs incurred in this respect by the local authority should be completely reimbursed by the government concerned [paragraph 998 (vi)].

Chapter XII—Finance

(234) All local authorities should be entitled to payment, by the State Authority, of annual general grants subject to the provisions of recommendations (235) and (236) hereof [paragraph 1028 (i)].

(235) The annual general grant should be made to enable a local authority to render the services required of it by the State Authority [paragraph 1028 (ii)].

(236) The quantum of an annual general grant should be determined having regard to—

(i) the actual annual revenue of the local authority; and

(ii) the real need for the grant [paragraph 1028 (iii)].

(237) All local authorities may be entitled to specific grants from the Federal Government [paragraph 1028 (iv)].

(238) A specific grant may be made by the Federal Government on the application of a local authority for a specific project in its area subject to such conditions as the Federal Government may wish to impose [paragraph 1028 (v)].

(239) State Governments should wherever possible also make specific grants to local authorities [paragraph 1028 (vi)].

(240) The Federal Government should establish a Local Authorities Credit Fund with the following functions—

(i) to provide short and long-term loans to local authorities on reasonable terms;

(ii) to provide, free of cost, expert financial and technical advice on projects for which the loan is required [paragraph 1035].

(241) All trades and businesses registered under the Registration of Businesses Ordinance, 1956, should be required to pay licence fees annually to local authorities [paragraph 1047 (i)].

(242) The National Council for Local Government should fix a statutory minimum and maximum range of fee that may be charged by a local authority in respect of any trade or business and it should be up to the individual local authorities to at its discretion fix the level of fees to be charged therefor [paragraph 1047 (ii)].

(243) The National Council for Local Government should from time to time review the revenue resources available to local authorities and make such allocation of taxable resources to local authorities as would enable them to discharge their functions effectively [paragraph 1047 (iii)].

(244) Allocations of additional taxable resources may be done by one of the following three ways—

(i) by allocating a revenue resource exclusively to local authorities;

(ii) by sharing a revenue resource between the Federal or State Government on the one hand and the local authorities on the other;

(iii) by enabling local authorities to levy a tax or fee in addition to that levied on a revenue resource by the Federal or State Government as the case may be [paragraph 1047 (iv)].

(245) The proposed Central Valuation for Rating Bill should be introduced and passed by Parliament with the minimum of delay [paragraph 1056 (i)].

(246) A general revaluation of rateable properties should be undertaken throughout West Malaysia as a matter of utmost urgency [paragraph 1056 (ii)].

(247) Controlled premises should be valued in the same manner as those premises not subject to rent control and the provision enabling local authorities to disregard the effect of rent control in the valuation of controlled premises should be retained in the proposed Local Government Act [paragraph 1059].

(248) A complete review should be undertaken in respect of licence fees with a view to raising them to realistic and acceptable levels [paragraph 1062 (i)].

(249) There should be strict enforcement of the law in the issue of new licences and renewals thereof and against illegal traders [paragraph 1062 (ii)].

(250) Instead of separate fees being levied in respect of conservancy, scavenging and trade refuse disposal services, the cost involved in discharging these services should be consolidated into the general assessment rate [paragraph 1064)].

(251) The State Governments that have not already come to an agreement with local authorities on the quantum of contribution-in-aid of rates payable, should do so without any further delay [paragraph 1072 (i)].

(252) The Malayan Railway Administration should, as a matter of utmost urgency, reach agreement with the local authorities on the contribution-in-aid of rates payable in respect of railway properties [paragraph 1072 (ii)].

(253) In the ensuing years contribution-in-aid of rates by the Federal Government, the State Governments and all Public Authorities, should be made to local authorities not later than February of that year so that local authorities would be better able to plan their activities and put to maximum use revenue from this source [paragraph 1072 (iii)].

(254) The Secretary to every local authority should be made personally accountable and liable to surcharge for any expenditure on purposes other than those approved by the State Authority [paragraph 1079 (i)].

(255) State Governments should be responsible to ensure that audit observations are acted upon by the individual local authorities [paragraph 1079 (ii)].

(256) The provision requiring local authorities to submit their accounts for audit by a fixed date, their submission to the Ruler/Governor-in-Council and for their subsequent *gazettal* with audit observations thereon, should be retained in the proposal Local Government Act [paragraph 1079 (iii)].

(257) The Ministry of Local Government and Housing in co-operation with the Auditor-General's Office should draft model uniform accounting procedures for adoption by all local authorities [paragraph 1079 (iv)].

(258) The Secretary to the local authority should be the officer held responsible for the effective collection of rates [paragraph1092 (i)].

(259) Any person found guilty of hindering the Secretary to a local authority from performing his duty in the enforcement of the law for the collection or recovery of rates should be guilty of an offence punishable with a fine of one thousand dollars or imprisonment for a term not exceeding 6 months, or both [paragraph 1092 (ii)].

(260) The procedure for the recovery of an arrear of rates should be as follows—

(*a*) if no payment has been made by the end of six weeks of the date a rate becomes payable, the Secretary should proceed immediately to seize and sell movable properties belonging to the defaulter for realisation of the dues;

(*b*) if action as in (*a*) above would not realise an amount required to cover the dues or if it is not possible to seize moveable properties of the owner on account that he is not in occupation of the property on which payment is overdue, the Secretary should immediately file in the necessary documents of charge on the property with the Registrar of Titles for the area; a notice to the effect should also be sent to the defaulter;

(*c*) all fees in connection with the registration of the charge, together with interest at 1% per month on the amount due from the date of registration of the charge, shall be deemed to be a charge on the property. Such charge shall have priority over any charge registered in respect of the property by any person or body other than the Government;

(*d*) if at the expiry of one year of the registration of the charge the defaulter has still not settled his dues, the Secretary should move the Court for an Order for sale of the property in question [paragraph 1092 (iii) to (vi)].

Chapter XIII—Legislation

(261) The legislation referred to in paragraph 1108 should be repealed and should be replaced by the proposed Local Government Act [paragraph 1109 (i)].

(262) The provisions of the Municipal Ordinance (S.S. Cap. 133) and the Town Boards Enactment (F.M.S. Cap. 137) unrelated to and unaffected by the recommendations of this Report should be carefully analysed and incorporated into the proposed Local Government Act, provided the provisions to be incorporated are not in any way inconsistent with the spirit and intent of the recommendations of this Report [paragrapah 1109 (ii)].

(263) The usual and technical provisions of the Municipal Ordinance (S.S. Cap. 133) and the Town Boards Enactment (F.M.S. Cap. 137) enumerated in paragraphs 1104 and 1105 should be incorporated into the proposed Local Government Act to the extent that they are not inconsistent with the recommendations of this Report [paragraph 1109 (iii)].

(264) The Minister for Local Government and Housing should appoint a Drafting Committee to draft the proposed Local Government Act [paragraph 1109 (iv)].

(265) In drafting the usual and technical provisions of the proposed Local Government Act, the Drafting Committee may look into the current local government legislation of Commonwealth countries such as England, Australia, Canada and India, and also into those of few other developed and developing countries for the purpose of improving the usual and technical provisions of the Municipal Ordinance and Town Boards Enactment and bringing them up-to-date and making them effective [paragraph 1109 (v)].

(266) The Local Government Elections Act, 1960, and the Local Authorities (Conditions of Service) Act, 1964, should be repealed and such of their provisions as are not inconsistent with the recommendations of this Report should be incorporated into the proposed Local Government Act [paragraph 1109 (vi)].

(267) The Federal Commissioner of Local Government should be charged with the responsibility of drafting such model by-laws as would be necessary under the proposed Local Government Act [paragraph 1116 (i)].

(268) The Ministry of Local Government and Housing should engage the services of a lawyer to assist the Federal Commissioner of Local Government to prepare model by-laws for adoption by local authorities throughout the country [paragraph 1116 (ii)].

(269) Every local authority should by *gazette* cause to be declared—

(*a*) Gazetted Urban Areas and

(*b*) Gazetted Village Areas [paragraph 1126 (i)].

(270) Holdings in gazetted urban and village areas should be rated on the basis of their annual values [paragraph 1126 (ii)].

(271) Areas outside gazetted urban and village areas should be categorised into—

(i) Agricultural Holdings and

(ii) Mining Holdings [paragraph 1126 (iii)].

(272) A tax to be styled as Property Tax should be levied on an acreage basis in respect of agricultural and mining holdings as follows—

(i) an agricultural holding of above 10 acres should be required to pay a Property Tax at a level of not less than $1 but not more than $5 per acre or part thereof per year;

(ii) an agricultural holding of below 10 acres should be required to pay a Property Tax at a level not less than $1 but not more than $2 per acre or part thereof per year;

(iii) a mining holding should be required to pay a Property Tax at a level not less than $1 and not more than $5 per acre per year [paragraph 1126 (iv)].

(273) A local authority should be empowered to fix at its discretion the level of the Property Tax to be levied in any year subject to the aforesaid minimum and maximum amounts [paragraph 1126 (v)].

(274) In fixing the Property Tax per acre at a level between the minimum and the maximum amounts, a local authority should take into consideration the proximate situation of an agricultural or Mining holding to an urban area and fix the tax accordingly [paragraph 1126 (vi)].

(275) An arrear in respect of Property Tax should be recoverable in the same manner provided for recovery of rates [paragraph 1126 (vii)].

(276) A rateable holding should be clearly defined in the proposed Valuation for Rating Bill as stated in paragraph 1129 [paragraph 1135 (i)].

(277) The concept of annual value should be made uniform throughout West Malaysia [paragraph 1135 (ii)].

(278) The definition of annual value contained in the Town Boards Enactment (F.M.S. Cap. 137) should be retained with the express provisos stated in paragraph 1130 [paragraph 1135 (iii)].

(279) Refund or postponenment of payment or remission of rate in respect of a part of a building as stated in paragraph 1132 should be expressly provided in the proposed Local Government Act [paragraph 1135 (iv)].

(280) Provision should be made in the proposed Local Government Act enabling a local authority to carry out provisional valuation of its own until a valuation list is prepared by the machinery established under the proposed Valuation for Rating Bill [paragraph 1135 (v)].

(281) Any person dissatisfied with the valuation of his holding should have the right of appeal against the decision of the High Court to the Federal Court, whose decision should be final and conclusive [paragraph 1135 (vi)].

(282) Every local authority should have three Development Plans, namely—

(*a*) A District Development Plan;

(*b*) An Urban Development Plan;

(*c*) A Village Development Plan [paragraph 1151 (i)].

(283) A District Development Plan should broadly show the projected land use in the areas of a district outside the Gazetted Urban and Village Areas [paragraph 1151 (ii)].

(284) An Urban Development Plan should show in adequate detail the projected land use in a Gazetted Urban Area [paragraph 1151 (iii)].

(285) A Village Development Plan should show in adequate detail the projected land use in a Gazetted Village Area [paragraph 1151 (iv)].

(286) A Village Development Plan should be so drawn as to enable a village to have the potentials for an orderly transformation into an urban area [paragraph 1151 (v)].

(287) Every Development Plan should have a programme map showing the priority of development, i.e., which area ought to be developed first and which would be developed in the second or third phase [paragraph 1151 (vi)].

(288) The procedure for the preparation and approval of Development Plans should be as under—

(i) every Development Plan should be prepared by the State Planning Officer in consultation with the local authority thereby providing adequate public participation;

(ii) the Plans having been prepared, should be tabled at a meeting of the Council of the local authority for its approval;

(iii) after the approval of the Plans by the Council of the local authority they should be posted up in the local authority's main office and other local offices, if any, for the views of the public;

(iv) members of the public who wish to make objections to any part or parts of the Plans should be heard by a Committee headed by the State Planning Officer. Other members of the Committee should consist of the following: Secretary to the local authority, the Chairman of the Management Board, the Chairman of the Planning Committee, if any, of the local authority and one other member of the Council;

(v) any objections made and the Committee's conclusions on each of the objections should be recorded and forwarded to the State Authority;

(vi) the State Authority should consider the Plans and the objections together with the views of the Committee thereon and record its own conclusions and forward the same to the National Development Planning Committee;

(vii) if no comment is made by the National Development Planning Committee within three months from the date the Plans were received, the State Authority should deem the Plans as having been accepted by the National Development Planning Committee. If however, any views thereon are expressed by the National Development Planning Committee, such views should be given due consideration by the State Authority in approving the Plans;

(viii) when the Plans are approved by the State Authority, they should be gazetted whereupon the Plans should come into force;

(ix) a copy of every approved Plan should be sent by the State Authority to the National Development Planning Committee and the Ministry of Local Government and Housing [paragraph 1151 (vii)].

(289) Physical planners should be closely associated with the preparation of sectoral planning so that they will have a full appreciation of the projected land use at urban and rural levels [paragraph 1151 (viii)].

(290) A physical Development Plan should be prepared in a flexible manner and should be reviewed once in every five years [paragraph 1151 (ix)].

(291) Notwithstanding a Gazetted Development Plan, every developer should first obtain a planning permission in respect of his proposed development [paragraph 1151 (x)].

(292) Any law relating to physical development should be styled as the Regional Planning Act which should have provisions relating to regional development of every State, district, urban and village units in the country [paragraph 1151 (xi)].

(293) Any proposed legislation on regional planning should contain a broad flexible definition of the term "development" [paragraph 1151 (xii)].

(294) In considering an application for permission to develop, a local authority should not only pay regard to the Development Plan concerned but also pay regard to other material and relevant considerations [paragraph 1151 (xiii)].

(295) If a person develops his land contrary to the conditions of a planning permission granted, the local authority concerned should be empowered to issue an enforcement notice requiring the developer to take steps within a prescribed time to discontinue the unlawful use of the land and comply with the conditions of the permission granted and may also institute legal proceedings against the developer for breach of the conditions. If, on the other hand, a person develops his land without first obtaining a planning permission the local authority concerned should be empowered to demolish the building so erected, to charge the developer for all the costs involved in demolishing the building and to institute legal proceedings against the developer for building without planning permission. A local authority should also be empowered at its discretion to take default action at the expense of the offender with provisions that the expense incurred thereby be charged against the property as in the case of recovery of arrears of rates [paragraph 1151 (xiv)].

(296) When a planning permission is refused or is subjected to unreasonable conditions or is not approved within the prescribed period, the aggrieved applicant should have the right to apply for remedy to the Local Government Tribunal recommended in paragraph 846 [paragraph 1151 (xv)].

(297) Loan facilities should be made available by the State or Federal Government to local authorities to acquire land and enable payment of adequate compensation for purposes of urban renewal [paragraph 1157 (i)].

(298) Lands so acquired should be redeveloped by local authorities on a commercial basis and such redeveloped properties should be sold and the proceeds thereof should be used to repay the loans [paragraph 1157 (ii)].

(299) The proposed Local Government Act should contain clear provisions as regards acquisition of lands by local authorities and payment of compensation therefor consistent with Article 13 (1) of the Constitution [paragraph 1157 (iii)].

(300) The provisions of Section 29 of the Municipal Ordinance (S.S. Cap. 133) and Section 12A (3) of the Town Boards Enactment (F.M.S. Cap. 137) should be

suitably incorporated into the proposed Local Government Act provided that they are not inconsistent with the recommendations of this Report [paragraph 1159].

(301) The provisions of Section 15 of the Town Boards Enactment (F.M.S. Cap. 137) and Section 58 of the Municipal Ordinance (S.S. Cap. 133) should be suitably drafted into the proposed Local Government Act provided that they are not inconsistent with the recommendations of this Report [paragraph 1161].

(302) All local authorities should have the power to compound offences committed against the provisions of the proposed Local Government Act or any of the rules or regulations made thereunder [paragraph 1163 (i)].

(303) The power to compound offences should be vested in the Secretary to the local authority [paragraph 1163 (ii)].

(304) The maximum compoundable fine should be raised to $50 [paragraph 1163 (iii)].

(305) If it is administratively convenient to administer a fire service through the agency of a local authority, the State Government should meet all the costs involved in running the fire service by the local authority [paragraph 1165].

(306) No statutory body should be vested with powers to render services and functions that are normally within the purview of a local authority [paragraph 1167].

ACKNOWLEDGEMENTS

We wish to acknowledge our thanks to all persons, associations, organisations and bodies who either appeared before us to give evidence or submitted written memoranda.

We are grateful to all the State Governments for facilitating our enquiries in their States and for providing members of the Commission accommodation and transport facilities. We are also grateful to the District Officers all over the country for the detailed arrangements made in their respective districts in connection with the sittings and hearing of evidence by our Commission and for their generous hospitality during our stay in their districts.

We feel indebted to the Chief Registrar, Federal Court, Kuala Lumpur and the Courts of the various States for making available the services of competent interpreters to assist the Commission during its enquiries.

We record our thanks to the Chief Statistician, Malaysia, Enche' R. Chander and his assistant Enche' Lee Mun Swee for preparing, in spite of other pressing demands on their time, the Tables appearing at the end of this Report from the completed proformae submitted by all the local authorities and for the Charts appearing in this Report.

We take this opportunity to thank the Clerk of Parliament for his assistance in making available the use of the Conference Rooms in Parliament House both during our deliberations and the drafting of this Report. To Miss Nonis the librarian at Parliament House who not only loaned us books from the Parliament Library but also provided us with useful literature on local government loaned from the British Council Library, we express our thanks.

We also express our thanks to the United States Information Service for making available to us useful books on local government.

We are grateful to the Asia Foundation, Kuala Lumpur, for enabling all the members of the Commission to attend the Conference of the International Union of Local Authorities held in Bangkok in February 1967. In particular we wish to record our thanks to Mr William L. Eilers the then Head of the Foundation for his initiative and enthusiasm which made possible our attendance at this Conference held for the first time in Asia.

We are appreciative of the kindness of the Commissioner of the Federal Capital, Kuala Lumpur, for making available the services of the Council Stenographer, Enche' Tan Ti Mor who took down the evidence given in some of our enquiries and recorded the minutes during the most part of our deliberations.

Our grateful thanks go to Mrs S. M. Thomasz on whom fell the main task of deciphering our manuscripts and most of the typographical work connected with this Report. All through the gruelling period in the preparation of this Report she has borne her task most cheerfully sacrificing her weekends and holidays.

We wish to thank the Secretary to the Commission Enche' Mohd. Senawi bin Haji Zainuddin, P.M.P., P.J.K., and the Assistant Secretary Enche' T. Puvanarajah for their unremitting and uniformly cheerful co-operation throughout the enquiry, deliberations and the drafting of the Report. Without the very able assistance of these two public servants and their enthusiastic staff the Commission could not have completed its task within the target date it had set for itself.

At this stage it may not be out of place to state that the Drafting Team of the Commission consisted of the Chairman, Secretary and the Assistant Secretary, all of whom could only work on a part-time basis. The Secretary and Assistant Secretary were required to discharge their normal duties in the Ministry of Local Government and Housing in addition to servicing the Commission. In trying to complete the draft report before the target date the Drafting Team had literally to work day and night for about six months. The ungrudging co-operation received from the Secretariat during these exacting days was all the more commendable. In order that future Commissions of this kind do not take as a precedent the time taken by this Commission to complete its Report we wish to state that if the Chairman and the Secretariat of the Commission had been engaged on a full-time basis the time taken might very well have not exceeded two years. The Commission's Secretariat was also inadequately staffed and had no office of its own. Having regard to these shortcomings and the magnitude of the task, we do not believe that we have taken an unduly long period to complete the Report.

STAFF OF THE COMMISSION

Secretary	Enche' Mohd. Senawi bin Haji Zainuddin	1-7-65—31-12-68
Assistant Secretary ...	Enche' T. Puvanarajah	1-8-65—31-12-68
Stenographer ...	Che' Faridah binti Haji Ariffin	20-9-65— 10-2-66
	Enche' Joseph Varghese	7-6-66— 1-7-67
	Mrs S. M. Thomasz	1-8-67—31-12-68
	(Authorised Establishment: 1)	
Clerk	Miss Wong Lai Choo	1-8-65— 15-2-67
	(Authorised Establishment: 1)	

DATES OF SITTINGS OF THE COMMISSION

KELANTAN—			
24-10-65	p.m.	... ...	Kota Bharu
25-10-65	a.m.	... ...	Kuala Krai
—	p.m.	... ...	Machang
26-10-65	a.m.	... ...	Pasir Mas
—	p.m.	... ...	Tanah Merah
27-10-65	a.m.	... ...	Bachok
—	p.m.	... ...	Pasir Puteh
28-10-65	a.m.	... ...	Kota Bharu
—	p.m.	... ...	Tumpat
KEDAH—			
1-2-66	—	... ...	Jitra
5-2-66	—	... ...	Kuah, P. Langkawi
6-2-66	a.m.	... ...	Alor Star
—	p.m.	... ...	Kuala Nerang
7-2-66	a.m.	... ...	Alor Star
—	p.m.	... ...	Gurun
8-2-66	a.m.	... ...	Sungei Patani
—	p.m.	... ...	Sungei Patani
9-2-66	a.m.	... ...	Kulim
—	p.m.	... ...	Bandar Bahru
10-2-66	p.m.	... ...	Baling
PERLIS—			
2-2-66	a.m.	... ...	Kangar
—	p.m.	... ...	Kangar
3-2-66	a.m.	... ...	Kangar
PENANG—			
22-2-66	a.m.	... ...	State Legislative Assembly
—	p.m.	... ...	State Legislative Assembly
23-2-66	a.m.	... ...	State Legislative Assembly
—	p.m.	... ...	State Legislative Assembly
24-2-66	a.m.	... ...	Butterworth
—	p.m.	... ...	Butterworth
25-2-66	a.m.	... ...	Balik Pulau
—	p.m.	... ...	Ayer Itam
26-2-66	a.m.	... ...	Tanjong Bungah
28-2-66	a.m.	... ...	Bukit Mertajam
—	p.m.	... ...	Bukit Mertajam
1-3-66	a.m.	... ...	Nibong Tebal
—	p.m.	... ...	Nibong Tebal

DATES OF SITTINGS OF THE COMMISSION—(*cont.*)

PERAK—

10-3-66	a.m.	Kampar
—	p.m.	Kampar
11-3-66	a.m.	Batu Gajah
—	p.m.	Batu Gajah
12-3-66	a.m.	Grik
14-3-66	a.m.	Lumut
—	p.m.	Lumut
15-3-66	a.m.	Kuala Kangsar
—	p.m.	Kuala Kangsar
16-3-66	a.m.	Parit Buntar
—	p.m.	Selama
17-3-66	a.m.	Taiping
—	p.m.	Taiping
18-3-66	a.m.	Rural Dev. Ops. Room
—	p.m.	Rural Dev. Ops. Room
19-3-66	a.m.	Rural Dev. Ops. Room
21-3-66	a.m.	Tanah Rata, Cameron Highlands
22-3-66	a.m.	Telok Anson
—	p.m.	Telok Anson
23-3-66	a.m.	Tapah
—	p.m.	Tapah
24-3-66	a.m.	Tanjong Malim
—	p.m.	Tanjong Malim

PAHANG—

25-4-66	—	Kuantan
25-4-66	—	Pekan
26-4-66	—	Temerloh
27-4-66	—	Bentong
27-4-66	p.m.	Raub
28-4-66	a.m.	Kuala Lipis
29-4-66	—	Jerantut

JOHORE—

9-5-66	a.m.	Johore Bahru
	p.m.	Johore Bahru
10-5-66	a.m.	Johore Bahru
11-5-66	a.m.	Pontian
	p.m.	Pontian
12-5-66	a.m.	Kota Tinggi
	p.m.	Kota Tinggi
14-5-66	a.m.	Mersing
15-5-66	a.m.	Kluang
	p.m.	Kluang

DATES OF SITTINGS OF THE COMMISSION—(*cont.*)

JOHORE—(*cont.*)

16-5-66	a.m.	Batu Pahat
17-5-66	a.m.	Segamat
	p.m.	Segamat
18-5-66	a.m.	Muar
	p.m.	Muar

MALACCA—

19-5-66	p.m.	Jasin
20-5-66	a.m.	Alor Gajah
	p.m.	Malacca Ex. Co. Chambers
21-5-66	a.m.	Malacca Ex. Co. Chambers
	p.m.	Malacca Ex. Co. Chambers

NEGRI SEMBILAN—

4-7-66	p.m.	Kuala Pilah
5-7-66	a.m.	Tampin
6-7-66	a.m.	Seremban
	p.m.	Seremban
7-7-66	a.m.	Seremban
	p.m.	Seremban
8-7-66	a.m.	Port Dickson

TRENGGANU—

16-7-66	p.m.	Kuala Trengganu
17-7-66	a.m.	Kuala Trengganu
	p.m.	Kuala Brang
18-7-66	a.m.	Besut
19-7-66	a.m.	Dungun
	p.m.	Kemaman

SELANGOR—

25-7-66	a.m.	State Legislative Assembly, Kuala Lumpur
		Klang
26-7-66	—	Banting
27-7-66	a.m.	Kuala Selangor
	p.m.	Tanjong Karang
28-7-66	a.m.	Sabak Bernam
29-7-66	a.m.	Kuala Kubu Bahru
30-7-66	a.m.	Kajang
1-8-66	a.m.	Chinese Assembly Hall, Kuala Lumpur
	p.m.	Chinese Assembly Hall, Kuala Lumpur
2-8-66	a.m.	Chinese Assembly Hall, Kuala Lumpur
	p.m.	Jinjang
3-8-66	—	Ministry of Local Government and Housing, Kuala Lumpur

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE

1. President, Pontian Town Council.
2. Acting Chairman, Ulu Tiram Local Council.
3. Chairman, Sedenak Local Council.
4. Chairman, Kulai Local Council.
5. Chairman, Sengkang Local Council.
6. Deputy Chairman, Parit Yaani Local Council.
7. Yu Choo Nam, for Chairman, Kangkar Bahru Local Council.
8. Arshad bin Nawi, 466 Jalan Jaafar Benut, Pontian.
9. Chairman, Minyak Beku Local Council.
10. Chairman, Kahang Local Council.
11. Chairman, Rengam Local Council (2 memoranda).
12. Chairman, Paloh Local Council.
13. Chairman, Kampong Machap Local Council.
14. President, Kluang Town Council.
15. Chairman, Ayer Hitam Local Council.
16. Chairman, Gemas Bahru Local Council (2 memoranda).
17. Chairman, Sri Lalang Local Council.
18. Chairman, Muar District Local Council.
19. Six Associations and Clubs of Bukit Gambir, Muar.
20. M.C.A., Tangkak Ward Branch.
21. M.C.A., Johore Bahru Timor and Barat Division.
22. President, ANULAE Muar Branch.
23. Chairman, Kampong Gajah Local Council.
24. Chairman, Layang Layang Local Council.
25. Sungei Sayong Local Council.
26. Chairman, Kampong Paya Local Council.
27. Chairman, Scudai Local Council.
28. Chairman, Simpang Rengam Local Council.
29. Chairman, Chaah Local Council.
30. Chairman, Kampong Tengah Local Council.
31. Chairman, Chamek Local Council.
32. Chairman, Bukit Siput Local Council.
33. M.C.A., Kota Tinggi Town Ward Branch.
34. Kluang Heng Chiew Hwee Kuan and Kluang Coffee Shop Association.

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont*).

35. Labour Party of Malaya, Segamat District Branch.
36. Chairman, Pekan Jabi Local Council.
37. Tan Tock Lay, 33B Jalan Hassan, Segamat.
38. Chairman, Paya Jakas Local Council.
39. Khoo Wah Koh and 3 other Labis Local Councillors.
40. Othman bin Ludin, Batu Pahat.
41. Chairman, Kangkar Pulai Local Council.
42. Labour Party of Malaya, Kluang Branch.
43. Chairman, Parit Yaani Local Council.
44. United Democratic Party, Johore Bahru Division.
45. President, Chinese Association Kluang.
46. Haron bin Kassim and 8 others, c/o 67c Jalan Tan Hiok Nee, Johore Bahru.
47. President, Kluang Hawkers Association.
48. Chairman, Sundry Merchants' Association, Kluang.
49. President, Kluang Chinese Chamber of Commerce.
50. Discontented Stallholders, Central Market, Johore Bahru.
51. Haji Ismail bin Hassan, M39 Kampong Melayu, Kluang.
52. UMNO, Mersing Division.
53. Labour Party of Malaya, Kota Tinggi Branch.
54. Labour Party of Malaya, Pontian District Branch.
55. Chairman, Pelentong Local Council.
56. Chairman, Parit Raja Local Council.
57. Chairman, Sri Gading Local Council.
58. Chairman, Pekan Nanas Local Council.
59. Chairman, Mersing Kechil Local Council.
60. Chairman, Jemaluang Local Council.
61. Chairman, Kampong Hubong Local Council.
62. Chairman, Benut Local Council.
63. Chairman, Tongkang Pechah Local Council.
64. Chairman, Senggarang Local Council.
65. Chan Poi Kuan, Councillor, Batu Pahat Town Council.
66. Chairman, Lam Lee Local Council.
67. Chairman, Permas Kechil Local Council.
68. A. Hamid bin Haji Mohamed and 3 others c/o Stall No. 1 (86 Gerai) Jalan Ah Fook, Johore Bahru.

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont*).

69. Labour Party of Malaya, Johore Division.
70. Rahmat bin Hj. Idris, Sanudin bin A. Manas and 8 other Johore Bahru Town Councillors.
71. Chairman, Serdang Local Council.
72. Khoo Oon Teik, 38 Lorong Bakar Sampah Lama, Alor Star (3 memoranda).
73. Chairman, Merbok Local Council.
74. A. Sulaiman, L.C.B. 461, Bedong.
75. One hundred and two members of General Public, Bedong.
76. Mahamud bin Hj. Abdullah and 26 others, c/o 537 Kampong Masjid, Bedong.
77. Indian Community c/o C. A. Madhavan, 337 Indian New Village, Bedong.
78. Leow Poh Seng, for Pokok Sena Local Council.
79. Sudagar Din Bros., P.O. Box 15, Alor Star.
80. Jeniang/Kuala Bigia Local Council.
81. Chairman, Sungai Lalang Local Council.
82. Geh Teng Kheng, Councillor, Alor Star Town Council.
83. Chairman, Bedong Local Council (2 memoranda).
84. Ooi Ah Kow, P.O. Box 7, Alor Star.
85. Chairman, Gurun Local Council.
86. Chairman, Guar Chempedak Local Council.
87. Chairman, Merbok Local Council.
88. Mohd. Shariff bin Puteh, District Officer, Kubang Pasu.
89. Chairman, Kupang Local Council.
90. Chairman, Tawar Local Council.
91. Sulaiman bin A. Rahman, 222 Guar Chempedak, Gurun.
92. Guar Chempedak Local Council.
93. Harun Haji Hamzah, District Officer, Baling.
94. Chairman, Kuala Muda Town Board.
95. Chairman, Kota Star Town Board.
96. Shaari bin Hj. Mohd. Daud, District Officer, Kota Star.
97. President, Sungei Patani Town Council.
98. Chairman, Pokok Sena Local Council.
99. Kedah State Government.
100. President, Alor Star Town Council.
101. Thirteen Businessmen of Kusial Bharu Local Council area.

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont*).

102. Five UMNO members of Bachok Town Council.
103. Ismail bin Yusoff, Councillor, Bachok Town Council.
104. A. Hamid bin Hj. Yaakob, on behalf of Elected Members of Kota Bharu Town Council.
105. Kota Bharu Town Council.
106. Presidents of Malay, Chinese and Indian Chambers of Commerce, Kelantan.
107. Chairman, Wakaf Bharu Local Council.
108. Hon. Secretary, State Alliance Committee Kelantan.
109. Mamat bin Mat Ali, Councillor, Gual Ipoh Local Council.
110. President, Pasir Mas Town Council.
111. Chairman, Pauh Lima Local Council.
112. Hussin bin Othman and 5 other Opposition Members of Tanah Merah Local Council.
113. Kelantan State Local Government Committee.
114. Chairman, Kusial Bharu Local Council.
115. Lee Kim San and fifty-three other Residents of Tanah Merah.
116. Ismail bin Hj. Abdullah, Councillor, Tanah Merah Local Council.
117. Abdul Rahman bin Abdullah and 8 other Kuala Kerai Town Councillors.
118. Chairman, Alliance Committee, Tanah Merah Division.
119. Ismail bin Musa, 201 Jalan Baharu, Tanah Merah.
120. Haji Abdul Latiff bin Ag. Besar, Councillor, Tanah Merah Local Council.
121. President, Kuala Kerai Town Council.
122. President, Bachok Town Council.
123. President, Pasir Puteh Town Council.
124. Secretary, Kota Bharu Town Council.
125. President, Tumpat Town Council.
126. Alliance members of Alor Gajah Rural District Council.
127. Labour Party of Malaya, Malacca Division.
128. R. K. Pragasam, 100 Jalan Temenggong, Malacca.
129. Municipal Workers' Union, Malacca.
130. Chairman, Alor Gajah Rural District Council.
131. ANULAE, Malacca Municipality Branch.
132. Chairman, Jasin Rural District Council.
133. Chairman, Malacca Central Rural District Council.
134. Malacca State Government.
135. Hasnul bin Abdul Hadi.

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont.*).

136. Secretary, Seremban Town Council.
137. Chairman, Titi Local Council.
138. Chairman, Rasah Local Council.
139. Chairman, Pajam Local Council.
140. Chairman, Mantin Local Council.
141. Chairman, Rahang Local Council.
142. Mustaffa bin Hj. Hassan, Balai Raya Bangan Pinang, Port Dickson.
143. M.I.C. Port Dickson Branch.
144. UMNO, South Negeri Sembilan Division.
145. Dr A. N. Ray, Health Officer, Seremban Town Council.
146. Negeri Sembilan Local Authorities Workers' Union.
147. Y.B. Dr Chen Man Hin, State Assemblyman, Negeri Sembilan.
148. Gan Khay Beng, Bee Chuan & Co. Ltd., Seremban.
149. Democratic Action Party, Seremban Branch.
150. J. Fernandez, Seremban.
151. Chin See Yin, Seremban.
152. Peoples Progressive Party, Port Dickson Branch.
153. Ahmad Sarji bin Abd. Hamid, District Officer, Port Dickson.
154. C. Rajaratnam, Port Dickson.
155. UMNO, Port Dickson Division.
156. Chairman, Mambau Local Council.
157. Negeri Sembilan State Government.
158. Chairman, Bahau Local Council.
159. Chairman, Tanjong Ipoh Local Council.
160. Fan Yew Teng, Lower Secondary School, Temerloh.
161. Chairman, Karak Local Council.
162. Y.B. Enche' Chow Seng Toong, State Assemblyman, Pahang.
163. Ahmad bin Wakidi and 3 other Bentong Town Councillors.
164. M.C.A., Bentong District Branch.
165. Seow Toong Sang, Councillor, Bentong Town Council.
166. Chan Siang Sun, 288 Perting Village, Bentong.
167. "Market", Kuala Lipis (3 memoranda).
168. Chairman, Pekan Town Board.
169. M.C.A., Kuantan Divisional Branch.
170. President, Kuantan Town Council.

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont.*)

171. Chairman, Kuala Pahang Local Council.
172. Dato' Chin Kong Loy, Hakka Community Association, Bentong.
173. Chop Kwong Woh Loong, 94 Ah Peng Street, Bentong.
174. Salleh bin Yahaya, District Officer, Bentong.
175. Chairman, Mengkarak Local Council.
176. Pahang State Government.
177. President, Bentong Town Council.
178. Chairman, Cameron Highlands Town Board.
179. Deputy Chairman, Kerdau Local Council.
180. Chairman, Mengkuang Local Council.
181. Chairman, Kemayan Local Council.
182. Chairman, Triang Local Council.
183. Chairman, Manchis Local Council.
184. Chairman, Sungei Dua Local Council.
185. Chairman, Dong Local Council.
186. Chairman, Kerayong Local Council.
187. Vice-President, Chinese Town Hall, Bentong.
188. V. S. Maniam, 45 Jalan Temerloh, Mentakab.
189. Labourers of Temerloh and Mentakab Town Council.
190. President, Temerloh and Mentakab Town Council.
191. Karak Local Council.
192. Chairman, Telemong Local Council.
193. Chairman, Tras Local Council.
194. Chairman, Cheroh Local Council.
195. Chairman, Sub-Committee of the Cameron Highlands Town Board.
196. Secretary, Rural District Council, Province Wellesley Central.
197. I. W. Hake, City Assessor, George Town City Council.
198. Chairman, Rural District Council, Penang Island.
199. Haji Ismail bin Che Chik, "Rahmat", 158 Jalan Kelawai, Penang.
200. "Malaysian residing in Butterworth".
201. Nicholas Ponnudurai, 32 Logan Road, Penang.
202. Hon. Secretary, George Town City Council Senior Officers Union.
203. Consultative Committee of Municipal Corporations.
204. President, National Government Pensioners' Council, Butterworth.
205. Abdul Rahman bin Haji Yunus, 725 Permatang Sintok, Kepala Batas.

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont.*)

206. Y.B. Senator G. Shelley, Penang.
207. UMNO, Penang/Province Wellesley.
208. Yunus bin Mohamad, Councillor, Province Wellesley North Rural District Council.
209. P.A. Das, Councillor, Penang Island Rural District Council.
210. Haji Sudin bin Kamaludin, 133 Mukim D Jalan Baharu, Balik Pulau.
211. Chairman, Rural District Council Province Wellesley South.
212. Ong Kean Thong, 5 Lorong Hijau 7, Penang.
213. Mayor, George Town City Council.
214. United Democratic Party members of Penang State Legislative Assembly.
215. Leng Hin Sek, Penang.
216. Gan Thean Chye, 11 Vale of Temple Road, Penang.
217. Nik Mohd. Zain bin Haji Hassan, District Officer, Nibong Tebal.
218. Protem President, Malayan Born Indian Association, Penang and Province Wellesley.
219. UMNO, Tapah District.
220. Low Jee Mee, Councillor, Tapah Town Council.
221. Y.B. Enche' V. Ponnusamy Pillai, State Assemblyman, Perak.
222. Chairman, Banir Local Council.
223. Chairman, Bidor Local Council (2 memoranda).
224. K. Ramasamy, 13 Jalan Mahkota, Telok Anson.
225. A. V. Perumal, Councillor, Telok Anson Town Council.
226. Y.B. Enche' Abdul Hamid bin Hj. Omar, State Legal Adviser, Perak.
227. Ditt Singh, Ipoh.
228. Sellar Saba Ratnam, 39c Thomson Road, Taiping.
229. Ipoh Municipal Councillors.
230. Y.B. Enche' Ahmad Alias bin Mohd. Aliff, State Assemblyman, Perak.
231. Dr S. Underwood, Underwood Clinic, Kuala Kangsar.
232. Abdul Wahab bin Hj. Zainuddin, Assistant District Officer, Lenggong.
233. UMNO, Kuala Kangsar Division.
234. S. K. Nair, 12 Jalan Pejabat Pos, Batu Gajah.
235. Secretary, Bruas Local Council.
236. Lim Siong Chun, Chinese Affairs Officers, Batu Gajah.
237. Sowdagar Singh, Kampong Kepayang, Sungai Raia.
238. Kuppusamy and 14 other labourers of Lenggong Local Council.
239. Soo Chee Ing, 132 Main Road, Ayer Tawar (2 memoranda).

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont.*)

240. Mohd. Noor bin Alias, District Officer, Hulu Perak.
241. Yaakub bin Abdul Hamid, District Officer, Kuala Kangsar.
242. District Officer, Batang Padang.
243. Chairman, Selat Pagar Local Council.
244. Chairman, Padang Grus Local Council.
245. Dato' Mohammad bin Ibrahim, District Officer, Hilir Perak.
246. Chairman, Lenggong Local Council.
247. Chairman, Chenderiang Local Council.
248. Chairman, Ayer Kala Local Council.
249. Chairman, Kota Tampan Local Council.
250. Chairman, Batu Dua Belas Local Council.
251. Bukit Merah Local Council.
252. Temoh Local Council.
253. Chairman, Sungkai Local Council.
254. Chairman, Sungei Terap Local Council.
255. Chairman, Sungei Bayor Local Council.
256. Chairman, Rantau Panjang Local Council.
257. Chairman, Kubu Gajah Local Council.
258. Chairman, Kampong Mesjid Local Council.
259. Chairman, Redang Panjang Local Council.
260. Chairman, Kampong Koh Local Council.
261. Azizul Rahman bin Abdul Aziz, District Officer, Larut and Matang.
262. Y.B. Enche' Cheong Kai Choong, State Assemblyman, Perak.
263. Chinese Affairs Officer, Ipoh.
264. Wan Sidik bin Wan Abdul Rahman, District Officer, Dindings.
265. Raja Abdul Aziz bin Raja Hj. Ahmad, District Officer, Kinta.
266. Chairman, Simpang Empat Local Council.
267. President, ANULAE, Federation of Malaya.
268. Chief Valuation Officer, Valuation Division, Ministry of Finance.
269. Auditor-General, Malaysia.
270. Y.B. Enche' Oon Seng Lee, State Assemblyman, Selangor.
271. Chairman, Sungai Buloh Local Council.
272. Secretary General, United Democratic Party, Malaysia.
273. Zakariah Yusuf, Partai Rakyat.
274. Salak South Local Council.

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont.*)

275. Chairman, Sungei Way Local Council.
276. Serdang Bahru Local Council.
277. Goh Hock Guan, Democratic Action Party, Malaysia.
278. Abdul Malik bin Osman and 6 others representing residents of Kg. Pasir Puteh, Kalumpang.
279. Chairman, Petaling Jaya Town Board.
280. Dato' Shahyar bin Dato' Abdul Hamid, Member of Ulu Selangor Town Board.
281. Mohd. Taib bin Ali, District Officer, Sabak Bernam.
282. Ahmad bin Haji Noor and other labourers of Tanjong Karang Local Council.
283. Chua Hock Tan and Hoo Ann Kee, Councillors, Tanjong Karang Local Council.
284. K. Ponnudurai, 668 Jalan Richard, Pandamaran, Port Swettenham.
285. Dr Lim Sian Lok, 174B Meru Road, Klang.
286. Chairman, Kalumpang Local Council (3 memoranda).
287. C. Ratnanathan, 10 Jalan Suppiah Pillay, 2¾ mile Ipoh Road, Sentul.
288. Tee Tong, Councillor, Meru Local Council.
289. Chairman, 18th Mile Ulu Langat Local Council.
290. Chairman, Tanjong Karang Local Council.
291. District Officer, Kuala Lumpur.
292. Chairman, Jeram Local Council.
293. Chairman, Kampong Baru Ijok Local Council (2 memoranda).
294. Chairman, Sungai Besar Local Council.
295. Johan bin Mohd. Yassin, District Officer, Klang (2 memoranda).
296. Chairman, Sungai Ayer Tawar Local Council.
297. Chairman, 9th Mile Cheras Local Council.
298. Batang Berjuntai Local Council.
299. Tanjong Sepat Local Council.
300. Selangor State Government (2 memoranda).
301. Y.A.B. Dato' Harun Idris, Menteri Besar, Selangor.
302. Anonymous, Kuala Lumpur.
303. Secretary, Kuala Trengganu Selatan Local Council (2 memoranda).
304. UMNO, Bukit Payong Branch.
305. Chairman, Kuala Trengganu Barat Local Council (2 memoranda).
306. Deputy Chairman, Kuala Trengganu Tengah Local Council.

LIST OF ORGANISATIONS AND INDIVIDUALS WHO SUBMITTED MEMORANDA OR WRITTEN EVIDENCE—(*cont.*)

307. Trengganu State Government.
308. Chairman, Paka Local Council.
309. President, Ulu Trengganu Town Council.
310. Abdullah bin Ibrahim and 5 other residents and businessmen of Pekan Ajil.
311. UMNO, Dungun Division.
312. Alliance members of Dungun Town Council.
313. UMNO, Trengganu State.
314. Hassan bin Din, State Auditor, Trengganu.
315. Chairman, Kuala Trengganu Utara Local Council.

APPENDIX "D"

POPULATION, AREA, REVENUE AND EXPENDITURE OF LOCAL AUTHORITIES (EXCLUDING LOCAL COUNCILS) AS AT THE END OF 1965

	Approx. Population	Approx. Area sq. m.	Revenue 1965 $ c.	Expenditure 1965 $ c.
MUNICIPALITIES—				
Penang	286,290	9.38	34,273,931 00	31,212,021 00
Ipoh	275,000	31	8,581,318 00	8,456,427 00
Malacca	80,000	4.2	3,656,696 51	3,984,143 93
RURAL DISTRICT COUNCILS—				
Penang Island	150,000	100.4	1,282,122 88	1,390,680 59
Malacca Central	230,000	113.55	313,570 55	424,786 00
Alor Gajah	90,000	261.49	170,709 47	345,976 61
Jasin	60,535	216	113,572 77	291,893 52
DISTRICT COUNCILS—				
North P. W.	130,000	104	965,448 49	1,025,898 22
Central P. W.	97,946	88.83	595,409 01	747,705 52
South P. W.	53,881	95.81	224,251 71	233,958 50
TOWN COUNCILS—				
Seremban	52,000	5	1,278,900 21	1,661,718 26
Klang	90,000	11.5	1,970,701 40	2,506,929 45
Taiping	48,183	9	1,441,928 59	1,930,630 72
Telok Anson	50,000	5.51	677,865 16	758,870 62
Alor Star	80,000	5	503,246 01	704,132 17
Sungei Patani	35,000	12	345,074 38	512,589 80
Kota Bharu	50,000	4.4	675,055 23	715,055 23
Pasir Mas	15,000	1.5	140,488 85	143,312 00
Machang	5,000	4	62,007 37	72,368 47
Bachok	2,000	0.25	21,515 70	28,569 85
Tumpat	12,000	0.58	74,694 62	97,454 08
Kuala Krai	4,500	0.84	83,548 80	116,019 69
Pasir Puteh	2,188	0.4	51,767 01	115,932 02
Kuantan	35,000	9.5	412,829 48	520,528 48
Bentong	20,000	3.5	240,572 62	291,800 78
Raub	18,000	3.5	146,396 88	210,678 67
Temerloh dan Mentakab	17,710	2.95	297,430 24	319,327 91
Kuala Lipis	11,800	1.63	158,812 93	250,495 31
Kangar	15,000	15	374,889 74	398,293 39
Johore Bahru	100,000	17.5	2,954,193 32	2,982,348 99
Bandar Maharani	70,000	8.62	874,602 00	845,904 14
Bandar Penggaram	50,000	5.42	835,058 33	851,404 49
Segamat	19,800	1.75	363,715 53	369,045 09
Kluang	50,000	6.2	775,182 00	766,517 20
Pontian	8,847	0.5	181,673 49	195,411 27
Kota Tinggi	10,000	1.2	164,407 69	176,864 60

POPULATION, AREA, REVENUE AND EXPENDITURE OF LOCAL AUTHORITIES (EXCLUDING LOCAL COUNCILS) AS AT THE END OF 1965—(*cont.*)

	Approx. Population	Approx. Area sq. m.	Revenue 1965 $ c.	Expenditure 1965 $ c.
TOWN COUNCILS—(*cont.*)				
Mersing	7,700	0.8	152,666 04	131,804 27
Kuala Pilah	23,500	3.13	137,867 02	185,220 52
Kampar	27,000	3	626,469 20	377,783 45
Kuala Kangsar	15,300	4	199,589 58	268,453 15
Tapah	10,500	1.7	113,197 53	159,340 02
Tanjong Malim	3,178	0.85	195,513 37	110,469 27
Kulim	21,133	1.92	160,731 30	206,110 27
Kuala Trengganu	55,000	5.74	320,358 46	707,664 95
Besut	12,352	2.17	36,803 88	137,084 93
Kemaman	20,000	3	55,444 15	202,662 78
Dungun	15,000	4	60,748 67	186,567 03
TOWN BOARDS—				
Tampin	10,450	2.3	162,993 50	185,438 15
Port Dickson	9,000	0.85	355,036 43	308,705 13
Petaling Jaya	55,000	7	1,876,703 00	2,413,563 61
Pekan	3,000	0.13	71,103 33	70,812 13
Cameron Highlands	3,590	7	188,587 67	160,628 72
Jerantut	3,000	1	65,510 88	47,965 63
Kuala Klawang	4,000	0.25	24,122 18	70,225 68
Rembau	5,000	0.46	26,538 35	79,291 49
Rompin	5,000	3	6,368 60	53,975 82
Rantau Nilai dan Broga	5,039	1.11	56,231 71	96,551 44
Ulu Selangor	26,918	2.13	161,688 18	280,443 94
Kuala Selangor	7,073	—	91,293 76	159,008 34
Ulu Langat	25,828	4.04	225,801 76	381,945 54
Kuala Langat	20,000	6	114,669 48	245,147 01
Sabak Bernam	6,000	4	42,864 92	164,011 29
Sepang	10,000	8	43,992 96	55,104 55
Batu Tiga	600	0.5	1,270 91	3,446 16
Grik	4,300	0.5	39,112 75	105,086 00
Kroh	4,000	2	68,697 91	64,504 30
Krian	80,000	5	187,918 51	242,893 57
Dindings	30,000	5.47	237,684 01	302,228 07
Lower Perak	5,075	5.5	240,511 28	88,895 56
Kinta Barat	22,000	7	256,963 65	338,431 15
Kinta Timor	10,000	2.57	117,574 96	93,757 94
Selama	3,355	6	26,350 99	59,587 68
Parit Rural Board	1,500	0.32	3,344 23	28,078 30
Kota Star	10,300	—	59,160 13	69,497 33
Kuala Muda	15,000	1	24,647 49	77,408 01
Kubang Pasu	3,600	0.83	32,710 40	42,917 71
Baling	8,600	—	36,793 38	88,329 23
Bandar Bahru	2,771	0.15	11,786 22	59,561 25
Langkawi	2,600	0.5	33,866 30	42,983 70
Marang	3,500	1	2,761 49	27,799 92
Ulu Trengganu	4,215	2.34	14,350 63	63,361 52
Fraser's Hill	750	11	10,895 68	22,550 00
Perlis	2,069	4	11,830 90	21,977 86
Kulim	1,844	0.3	7,657 86	59,079 80

WEST MALAYSIA: JANUARY 1967 POPULATION ESTIMATES BY DISTRICTS, AND TOWNS EXCEEDING 25,000 PERSONS

District	District Population (Est.) Jan. 1967 (*)	Towns with 25,000 Pop. & Above	Town Population (Est.)
JOHORE—			
Johore Bahru	140,508	Johore Bahru Town	91,968
Mersing	32,712	—	—
Kota Tinggi	55,260	—	—
Pontian	122,520	—	—
Batu Pahat	177,642	Bandar Penggaram	40,560
Muar	210,762	Bandar Maharani	45,480
Segamat	112,020	—	—
Kluang	70,092	Kluang Town	26,976
MALACCA—			
Jasin	75,240	—	—
Alor Gajah	104,448	—	—
Malacca Central	123,810	Malacca Town	81,516
PERLIS—			
Perlis	109,620	—	—
SELANGOR—			
Sabak Bernam	86,220	—	—
Ulu Langat	81,252	—	—
Kuala Langat	92,742	—	—
Klang	108,558	Klang Town	92,546
Kuala Lumpur	254,802	Kuala Lumpur Mun.	527,484
		Petaling Jaya	60,390
Ulu Selangor	115,830	—	—
Kuala Selangor	132,073	—	—
NEGERI SEMBILAN—			
Tampin	41,400	—	—
Rembau	47,184	—	—
Port Dickson	74,814	—	—
Seremban	117,996	Seremban Town	57,402
Kuala Pilah	123,294	—	—
Jelebu	42,516	—	—
TRENGGANU—			
Besut	80,334	—	—
Kuala Trengganu	136,374	Kuala Trengganu Town	36,948
Ulu Trengganu	37,038	—	—
Marang	17,244	—	—
Dungun	53,250	—	—
Kemaman	46,230	—	—

* The district population estimates do not include the figures shown for the towns.

WEST MALAYSIA: JANUARY 1967 POPULATION ESTIMATES BY DISTRICTS, AND TOWNS EXCEEDING 25,000 PERSONS—(*cont.*)

District	District Population (Est.) Jan. 1967 (*)	Towns with 25,000 Pop. & Above	Town Population (Est.)
PAHANG—			
Kuantan	44,724	Kuantan Town	26,868
Bentong	44,106	—	—
Temerloh	95,124	—	—
Pekan	66,114	—	—
Raub	33,592	—	—
Cameron Highlands	18,720	—	—
Lipis	48,468	—	—
Jerantut	29,238	—	—
PENANG—			
Penang North East	47,466	Georgetown City	286,104
		Ayer Itam Village	25,368
Penang South West	51,096	—	—
Butterworth	161,478	Butterworth Town	50,598
Bukit Mertajam	62,370	Bukit Mertajam Town	40,338
Nibong Tebal	58,482	—	—
KEDAH—			
Bandar Bahru	37,092	—	—
Kulim	88,260	—	—
Baling	81,450	—	—
Sik	27,294	—	—
Kuala Muda	119,316	Sungei Patani	29,040
Kota Star	265,608	Alor Star	58,134
Padang Terap	35,310	—	—
Kubang Pasu	121,338	—	—
Pulau Langkawi	33,462	—	—
Yen	60,324	—	—
KELANTAN—			
Tumpat	91,352	—	—
Pasir Mas	109,212	—	—
Tanah Merah	50,256	—	—
Ulu Kelantan	53,982	—	—
Machang	46,086	—	—
Kota Bharu	148,596	Kota Bharu Town	59,586
Bachok	55,242	—	—
Pasir Putch	62,808	—	—
PERAK—			
Lower Perak	157,836	Telok Anson	39,306
Batang Padang	129,294	—	—
Kinta	280,602	Kampar	26,202
		Ipoh Town	232,260
Kuala Kangsar	178,662	—	—
Dindings	106,404	—	—
Larut and Matang	128,856	Taiping Town	49,932
Krian	142,776	—	—
Selama	37,500	—	—
Upper Perak	57,840	—	—

* The district population estimates do not include the figures shown for the towns.

TABLE I

TOTAL NUMBER OF LOCAL AUTHORITIES BY TYPE AND FINANCIAL STATUS

Type of Local Authority	No. of Units	Financially Autonomous	Non-Financially Autonomous
Municipalities	3	3	—
Town Councils	37	27	10
Town Boards	37	6	31
Local Councils	289	289	—
District Councils	7	4	3
TOTAL ..	373	329	44

TABLE II

NUMBER OF MUNICIPALITIES BY STATE SHOWING AREA, POPULATION AND ELECTORATE

State	No. of Units	Area (Sq. Miles)		Population		Electorate	
		Total	Average Per Unit	Total	Average Per Unit	Total	Average Per Unit
Johore	—	—	—	—	—	—	—
Kedah	—	—	—	—	—	—	—
Kelantan	—	—	—	—	—	—	—
Malacca	1	4.20	4.20	88,000	80,000	32,140	32,140
Negri Sembilan	—	—	—	—	—	—	—
Pahang	—	—	—	—	—	—	—
Penang and Province Wellesley ..	1	9.38	9.38	286,290	286,290	97,159	97,159
Perak	1	31.00	31.00	275,000	275,000	82,806	82,806
Perlis	—	—	—	—	—	—	—
Selangor	—	—	—	—	—	—	—
Trengganu	—	—	—	—	—	—	—
TOTAL ..	3	44.58	14.86	641,290	213,763	212,105	70,702

TABLE III

TOTAL NUMBER OF WARDS BY AREA, POPULATION AND ELECTORATE CLASSIFIED BY TYPE OF LOCAL AUTHORITIES

Type of Local Authority	Total No. of Wards	Area (Sq. Miles)		Population		Electorate	
		Total	Average Per Ward	Total	Average Per Ward	Total	Average Per Ward
Municipalities	45	44.58	0.99	641,290	14,251	212,105	4,713
Town Councils	366	167.35	0.46	1,086,516	2,969	391,297	1,069
Town Boards	—	—	—	—	—	—	—
Local Councils	860	426.27	0.50	1,287,298	1,497	374,210	435
District Councils	110	977.33	8.88	811,562	7,378	271,066	2,464
TOTAL ..	1,381	1,721.22	1.25	4,238,643	3,069	1,248,678	904

TABLE IV

TOTAL NUMBER OF LOCAL AUTHORITIES BY TYPE SHOWING AREA, POPULATION AND ELECTORATE

Type of Local Authority	No. of Units	Area (Sq. Miles)		Population		Electorate (Excluding Town Boards)	
		Total	Average Per Unit	Total	Average Per Unit	Total	Average Per Unit
Municipalities	3	44.58	14.86	641,290	213,763	212,105	70,702
Town Councils	37	167.35	4.52	1,086,516	29,365	391,297	10,576
Town Boards	37	105.69	2.86	411,977	11,135	—	—
Local Councils	289	426.27	1.47	1,287,298	4,454	374,210	1,295
District Councils	7	977.33	139.62	811,562	115,937	271,066	38,724
TOTAL ..	373	1,721.22	4.61	4,238,643	11,364	1,248,678	3,716

TABLE V (*a*)

FINANCIAL POSITION OF FINANCIALLY AUTONOMOUS LOCAL AUTHORITIES—1965

Type of Local Authority	Actual Revenue	Actual Expenditure	Surplus (+) or Deficit (−)	Balancing Grants	Allocation for Projects		Grants for Road Maintenance		$ Contribution in Aid of Rates, etc.
					State Govt.	Federal Govt.	State Govt.	Federal Govt.	
Municipalities ..	46,511,900	43,652,500	(+)2,859,400	—	93,800	1,354,000	—	2,178,000	198,000
Town Councils ..	15,209,400	17,673,900	(−)2,464,500	137,800	418,900	146,100	470,400	127,300	462,500
Town Boards ..	2,719,900	3,187,100	(−) 467,200	—	24,000	—	69,300	661,100	55,000
Local Councils ..	5,008,500	6,859,700	(−)1,851,200	1,359,400	897,200	170,700	56,700	10,400	776,400
District Councils ..	3,067,300	3,398,300	(−)331,000	—	—	—	—	—	34,000
TOTAL ..	72,517,000	74,771,500	(−)2,254,500	1,497,200	1,433,900	1,670,800	596,400	2,976,800	1,525,900

TABLE V (*b*)

FINANCIAL POSITION OF NON-FINANCIALLY AUTONOMOUS LOCAL AUTHORITIES, 1965

									$
Municipalities ..	—	—	—	—	—	—	—	—	—
Town Councils ..	1,906,700	2,541,500	(−) 634,800	126,900	318,600	470,100	178,000	80,000	180,300
Town Boards ..	2,221,700	3,488,100	(−)1,266,400	646,700	744,100	21,200	305,300	291,000	52,600
Local Councils ..	—	—	—	—	—	—	—	—	—
District Councils ..	597,900	1,062,700	(−) 464,800	447,600	30,000	23,500	72,800	6,000	—
TOTAL ..	4,726,300	7,092,300	(−)2,366,000	1,221,200	1,092,700	514,800	556,100	377,000	232,900

TABLE VI

TOTAL NUMBER OF COUNCILLORS/MEMBERS BY AREA, POPULATION AND ELECTORATE CLASSIFIED BY TYPE OF LOCAL AUTHORITIES

Type of Local Authority	Total No. of Councillors/ Members	Area (Sq. Miles)		Population		Electorate	
		Total	Average Per Councillor/ Member	Total	Average Per Councillor/ Member	Total	Average Per Councillor/ Member
Municipalities	45	44.58	0.99	641,290	14,251	212,105	4,713
Town Councils	598	167.35	0.28	1,086,516	1,817	391,297	654
Town Boards	530	105.69	0.20	411,977	777	—	—
Local Councils	2,930	426.27	0.15	1,287,298	439	374,210	128
District Councils	120	977.33	8.14	811,562	6,763	271,066	2,259
TOTAL ..	4,223	1,721.22	0.41	4,238,643	1,004	1,248,678	338

TABLE VII

TOTAL NUMBER OF LOCAL AUTHORITIES BY TYPE SHOWING OFFICIAL STATUS OF CHAIRMAN AND MEMBERS

Type of Local Authority	No. of Units	Chairman		Total Numbers of Councillors/Members			
		Elected	Official	Elected	Nominated Officials	Nominated Unofficials	Total
Municipalities	3	3	—	45	—	—	45
Town Councils	37	7	30	424	130	44	598
Town Boards	37	—	37	—	195	335	530
Local Councils	289	289	—	2,446	120	364	2,930
District Councils	7	4	3	108	3	9	120
TOTAL ..	373	303	70	3,023	448	752	4,223

TABLE VIII

NUMBER OF TOWN COUNCILS BY STATE SHOWING AREA, POPULATION AND ELECTORATE

State	No. of Units	Area (Sq. Miles)		Population		Electorate	
		Total	Average Per Unit	Total	Average Per Unit	Total	Average Per Unit
Johore	8	41.79	5.22	316,347	39,543	95,531	11,941
Kedah	3	10.92	6.37	136,133	45,378	49,205	16,402
Kelantan	7	11.97	1.71	90,688	12,955	44,667	6,382
Malacca	—	—	—	—	—	—	—
Negri Sembilan	2	8.13	4.07	75,500	37,750	22,950	11,475
Pahang	5	21.08	4.22	102,510	20,502	35,698	7,140
Penang and Province Wellesley	—	—	—	—	—	—	—
Perak	6	24.05	4.01	157,986	26,331	61,686	10,281
Perlis	1	15.00	15.00	15,000	15,000	8,144	8,144
Selangor	1	11.50	11.50	90,000	90,000	33,488	33,488
Trengganu	4	14.91	3.73	102,352	25,588	39,928	9,982
TOTAL ..	37	167.35	4.52	1,086,516	29,365	391,297	10,576

TABLE IX

NUMBER OF TOWN BOARDS BY STATE SHOWING AREA, POPULATION AND ELECTORATE

State	No. of Units	Area (Sq. Miles)		Population		Electorate	
		Total	Average Per Unit	Total	Average Per Unit	Total	Average Per Unit
Johore	—	—	—	—	—	—	—
Kedah	7	4.14	0.59	41,715	5,959	—	—
Kelantan	—	—	—	—	—	—	—
Malacca	—	—	—	—	—	—	—
Negri Sembilan	6	7.97	1.33	38,489	6,415	—	—
Pahang	4	19.13	4.78	10,340	2,585	—	—
Penang and Province Wellesley	—	—	—	—	—	—	—
Perak	9	34.36	3.82	160,230	17,803	—	—
Perlis	1	4.00	4.00	2,069	2,069	—	—
Selangor	8	32.75	4.09	151,419	18,927	—	—
Trengganu	2	3.34	1.67	7,715	3,858	—	—
TOTAL ..	37	105.69	2.86	411,977	11,135	—	—

TABLE X

NUMBER OF DISTRICT COUNCILS BY STATE SHOWING AREA, POPULATION AND ELECTORATE

State	No. of Units	Area (Sq. Miles)		Population		Electorate	
		Total	Average Per Unit	Total	Average Per Unit	Total	Average Per Unit
Johore	—	—	—	—	—	—	—
Kedah	—	—	—	—	—	—	—
Kelantan	—	—	—	—	—	—	—
Malacca	3	591.05	197.02	380,535	126,845	106,206	35,402
Negri Sembilan	—	—	—	—	—	—	—
Pahang	—	—	—	—	—	—	—
Penang and Province Wellesley	4	386.28	96.57	431,027	107,757	164,860	41,215
Perak	—	—	—	—	—	—	—
Perlis	—	—	—	—	—	—	—
Selangor	—	—	—	—	—	—	—
Trengganu	—	—	—	—	—	—	—
TOTAL ..	7	977.33	139.62	811,562	115,937	271,066	38,724

TABLE XI

NUMBER OF LOCAL COUNCILS BY STATE SHOWING AREA, POPULATION AND ELECTORATE

State	No. of Units	Area (Sq. Miles)		Population		Electorate	
		Total	Average Per Unit	Total	Average Per Unit	Total	Average Per Unit
Johore	88	36.16	0.41	538,341	6,118	83,893	953
Kedah	28	20.82	0.74	71,420	2,551	31,467	1,124
Kelantan	21	86.36	4.11	71,020	3,382	41,095	1,957
Malacca	—	—	—	—	—	—	—
Negri Sembilan	12	12.22	1.02	45,857	3,821	14,672	1,223
Pahang	26	11.81	0.45	58,038	2,232	19,052	733
Penang and Province Wellesley ..	—	—	—	—	—	—	—
Perak	81	41.08	0.51	265,072	3,272	100,244	1,238
Perlis	2	1.22	0.61	4,500	2,250	1,954	977
Selangor	24	37.35	1.56	165,370	6,890	57,244	2,385
Trengganu	7	179.25	25.61	67,680	9,669	24,589	3,513
TOTAL ..	289	426.27	1.47	1,287,298	4,454	374,210	1,295

TABLE XII

TOTAL NUMBER OF LOCAL AUTHORITIES BY STATE SHOWING AREA, POPULATION AND ELECTORATE

State	No. of Units	Area (Sq. Miles)		Population		Electorate	
		Total	Average Per Unit	Total	Average Per Unit	Total	Average Per Unit
Johore	96	77.95	0.81	854,688	8,903	179,424	1,869
Kedah	38	43.88	1.15	249,268	6,560	96,106	2,329
Kelantan	28	98.33	3.51	161,708	5,775	85,762	3,063
Malacca	4	595.25	148.81	460,535	115,134	138,346	34,587
Negri Sembilan	20	28.32	1.42	159,846	7,992	47,399	2,370
Pahang	35	52.02	1.49	170,888	4,883	56,950	1,627
Penang and Province Wellesley	5	395.66	79.13	717,317	143,463	262,019	52,404
Perak	97	130.49	1.35	858,288	8,848	265,086	2,733
Perlis	4	20.22	5.06	21,569	5,392	11,427	2,857
Selangor	33	81.60	2.47	406,789	12,327	102,632	3,110
Trengganu	13	197.50	15.19	177,747	13,673	66,204	5,093
TOTAL ..	373	1,721.22	4.61	4,238,643	11,364	1,311,355	3,516

CHART I

TOTAL POPULATION WEST MALAYSIA (END OF 1966) 8,415,000

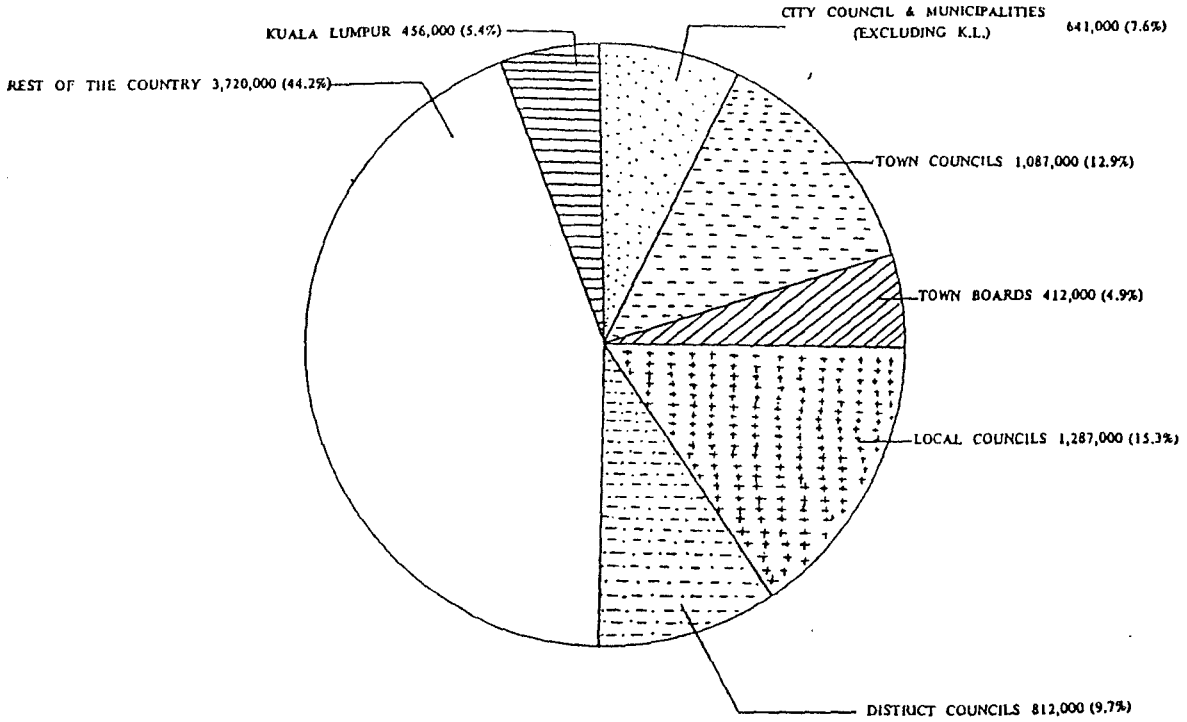

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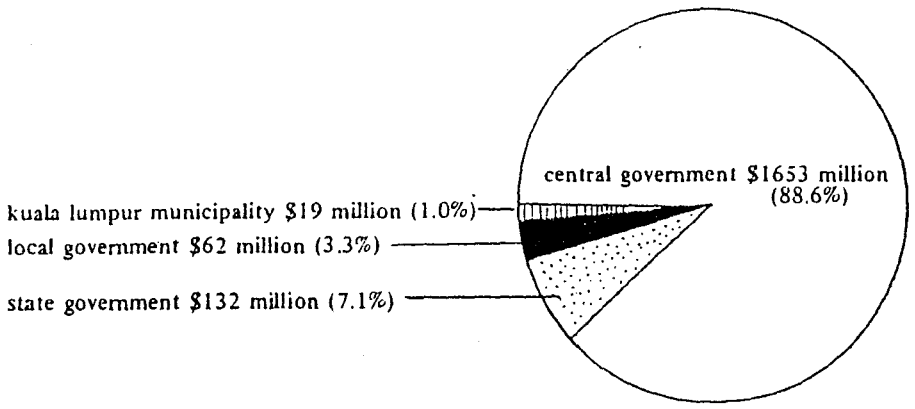
CHART II

GENERAL GOVERNMENT CURRENT REVENUE DURING 1965
AT CENTRAL, STATE AND LOCAL GOVERNMENT LEVEL
(WEST MALAYSIA ONLY)



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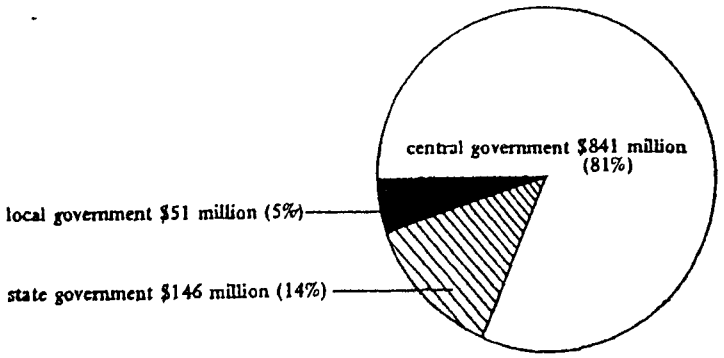
TOTAL GENERAL GOVERNMENT CURRENT REVENUE $1866 MILLION

CHART III

GOVERNMENT CONTRIBUTION TO GROSS DOMESTIC PRODUCT
(AT FACTOR COST) DURING 1965
(WEST MALAYSIA ONLY)

Gross Domestic Product (at Factor Cost) includes the following

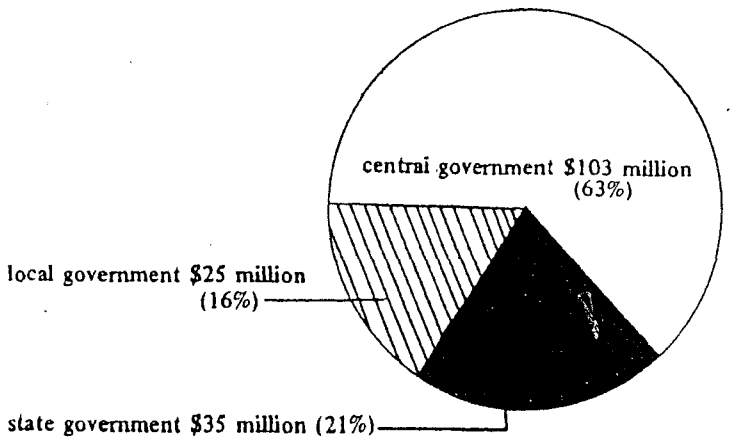
1. Salaries and wages paid
2. Rent and imputed rent
3. Depreciation (imputed)
4. Repairs and maintenance
5. Own account production



TOTAL GOVERNMENT CONTRIBUTION TO GROSS DOMESTIC PRODUCT $1038 MILLION

CHART IV

GOVERNMENT ENTERPRISES CURRENT REVENUE DURING 1965
(WEST MALAYSIA ONLY)



central government enterprises

1. printing
2. radio
3. television
4. post and telecoms
5. timber depot
6. housing trust
7. p.o.s.b.
8. apex bank

state government enterprises

1. water
2. toddy
3. hill railway

local government enterprises

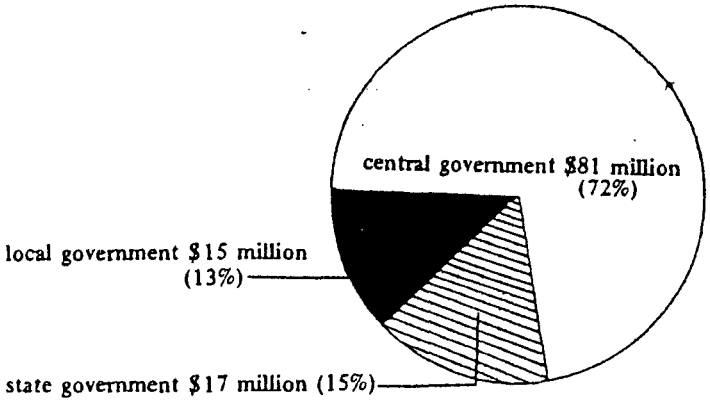
1. water
2. housing
3. transport
4. electricity
5. abattoir

TOTAL GOVERNMENT ENTERPRISES CURRENT REVENUE $163 MILLION

CHART V

GOVERNMENT ENTERPRISES CONTRIBUTION TO GROSS DOMESTIC PRODUCT AT FACTOR COST DURING 1965

(WEST MALAYSIA ONLY)



Central Government Enterprises

1. printing
2. radio
3. television
4. posts and telecoms
5. timber depot
6. housing trust
7. p.o.s.b.
8. apex bank

State Government Enterprises

1. water
2. toddy
3. hill railway

Local Government Enterprises

1. water
2. housing
3. transport
4. electricity
5. abattoir

TOTAL SERVICES CONTRIBUTION TO GROSS DOMESTIC PRODUCT $113 MILLION

23052—8-12-69.

CHART VI

ACTUAL REVENUE AND EXPENDITURE OF LOCAL AUTHORITIES FOR 1965